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# **PreK-12 Innovation Subcommittee**

**March 28, 2017**

**8:30 AM**

**Mashburn Hall (306 HOB)**

**Meeting Packet**

**Richard Corcoran  
Speaker**

**Chris Latvala  
Chair**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### PreK-12 Innovation Subcommittee

**Start Date and Time:** Tuesday, March 28, 2017 08:30 am  
**End Date and Time:** Tuesday, March 28, 2017 11:00 am  
**Location:** Mashburn Hall (306 HOB)  
**Duration:** 2.50 hrs

**Consideration of the following bill(s):**

HB 127 Public School Attendance Policies by Plasencia  
HB 371 Assistive Technology Devices by Ausley  
HB 1131 Shared Use of Public School Playground Facilities by Drake  
HB 1365 Early Childhood Music Education Incentive Pilot Program by Ahern

**Consideration of the following proposed committee bill(s):**

PCB PKI 17-01 -- Charter Schools

**Consideration of the following proposed committee substitute(s):**

PCS for HB 67 -- Public School Recess

**NOTICE FINALIZED on 03/24/2017 4:25PM by Jones.Missy**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for HB 67 Public School Recess  
**SPONSOR(S):** PreK-12 Innovation Subcommittee  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 78

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: PreK-12 Innovation Subcommittee		McAlarney	Healy

### SUMMARY ANALYSIS

This bill allows district school boards' to include free-play recess for students in kindergarten through 3<sup>rd</sup> grade in the currently mandated 150 minutes per week physical education requirement.

Additionally, the bill requires each school district to provide free-play recess each week on days when physical education classes are not held for students in kindergarten through 3<sup>rd</sup> grade so that there are at least 20 minutes of free-play recess.

The bill takes effect July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

Florida law requires each district school board (district) to develop a physical education (P.E.) program and encourage all students in prekindergarten through 12<sup>th</sup> grade to participate in P.E.<sup>1</sup>

##### **Instructional Hour Requirements**

A district must provide for the operation of public schools for a term of 180 days or the equivalent on an hourly basis as specified by rules of the State Board of Education.<sup>2</sup>

For purposes of the Florida Educational Finance Program (FEFP), a “full-time student” is a student on the membership roll of one school program or a combination of school programs for the school year or the equivalent for not less than 720 net hours of instruction for a student in kindergarten through 3<sup>rd</sup> grade or not less than 900 net hours of instruction for a student in 4<sup>th</sup> grade through 12<sup>th</sup> grade.<sup>3</sup> As a result, a district must provide, on average, four hours of instructional time per day for students in kindergarten through 3<sup>rd</sup> grade, and five hours of instruction per day for students in 4<sup>th</sup> grade through 12<sup>th</sup> grade to achieve the required minimum instructional hours during a 180-day school year.<sup>4</sup>

##### **Physical Education Requirements**

All districts must provide 150 minutes of P.E. each week for students in kindergarten through 5<sup>th</sup> grade and for students in 6<sup>th</sup> grade who are enrolled in a school that contains one or more elementary grades so that on any day during which P.E. instruction is conducted there are at least 30 consecutive minutes per day.<sup>5</sup>

P.E. must consist of physical activities of at least a moderate intensity level and for sufficient duration,<sup>6</sup> subject to the differing capabilities of students.<sup>7</sup> All P.E. programs and curricula must be reviewed by a certified P.E. instructor.<sup>8</sup> The Next Generation Sunshine State Standards (NGSSS) provide distinct grade level expectations for the knowledge and skills which a student is expected to acquire at each grade.<sup>9</sup>

Student enrollment in P.E. instruction must be reported and audited pursuant to state law.<sup>10</sup> The P.E. requirements for public elementary schools are waived when:<sup>11</sup>

- A student is enrolled, or is required to enroll, in a remedial course;
- A parent indicates in writing that the student is:
  - enrolled in another course from among those courses offered as options by the school district; or

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<sup>1</sup> Section 1003.455 (1), F.S.

<sup>2</sup> Sections 1003.02(1) (g) 1.; Section 1001.42 (4), F.S.; Rule 6A-1.045111, F.A.C.

<sup>3</sup> Section 1011.61 (1) (a) 1., F.S.

<sup>4</sup> Sections 1003.02 (1) (g) 1.; Section 1001.42 (4), F.S.; Rule 6A-1.045111, F.A.C.

<sup>5</sup> Section 1003.455 (3), F.S.

<sup>6</sup> Section 1003.455 (1), F.S.

<sup>7</sup> Section 1003.455 (1), F.S.

<sup>8</sup> Section 1003.455 (3), F.S.

<sup>9</sup> Section 1003.41 (1)-(2), F.S.

<sup>10</sup> Section 1003.455 (3), F.S.

<sup>11</sup> Section 1003.455 (4), F.S.

- o participating in physical activities outside the school day which are equal to or in excess of the mandated requirement.

Unstructured free-play is not addressed in these requirements. However, some districts have adopted policies requiring school recess. 11 of Florida's 67 districts have a kindergarten through 5<sup>th</sup> grade recess policy.<sup>12</sup> Of these districts:

- Seven require recess five days a week.<sup>13</sup>
- Two policies varied in the days per week recess is required.<sup>14</sup>
- Two did not specify the number of days required.<sup>15</sup>
- Two districts required a minimum of 100 minutes per week.<sup>16</sup>

The Florida Legislature's Office of Program Policy Analysis and Government Accountability (OPPAGA) surveyed 2,903 schools<sup>17</sup> about their recess practices.<sup>18</sup> 42% of schools responded<sup>19</sup> and 83% of schools offered recess during the 2015-2016 school year.<sup>20</sup>

### Effect of Proposed Changes

This bill allows districts to include free-play recess for students in kindergarten through grade 3 in currently mandated 150 minutes per week P.E. requirement.

Additionally, the bill requires each district to provide free-play recess each week on days when P.E. classes are not held for students in kindergarten through grade 3 so that there are at least 20 minutes of free-play recess.

### B. SECTION DIRECTORY:

**Section 1.** Amends s. 1003.455, F.S., by allowing district school boards' to include free-play recess in current physical education requirements for students in kindergarten through grade 3.

**Section 2:** Provides an effective date of July 1, 2017.

<sup>12</sup> The following school districts had a school board-approved recess policy during the 2015-2016 school year: Charlotte, Escambia, Gadsden, Lee, Levy, Miami-Dade, Nassau, Orange, Putnam, Union and Wakulla County school districts. Office of Program Policy Analysis and Government Accountability, *OPPAGA Review of Recess Policies and Practices*, presentation to the Senate Appropriations Subcommittee on Pre-K - 12 Education (Feb. 15, 2017) available at [http://www.flsenate.gov/PublishedContent/Committees/2016-2018/AED/MeetingRecords/MeetingPacket\\_3645\\_2.pdf](http://www.flsenate.gov/PublishedContent/Committees/2016-2018/AED/MeetingRecords/MeetingPacket_3645_2.pdf), at 5 (last visited Mar. 23, 2017).

<sup>13</sup> Recess policies for Charlotte, Escambia, Gadsden, Lee, Levy, Putnam, and Union county school districts specify that recess must be offered 5 days a week. *Id.* at 8.

<sup>14</sup> The school board-approved recess policies of Miami-Dade and Orange County school district varied in the number of days' recess is required at the time OPPAGA surveyed the school districts. *Id.*

<sup>15</sup> Nassau and Wakulla county district school board-approved recess policies did not specify the number of days per week recess must be offered to students. *Id.*

<sup>16</sup> Wakulla and Gadsden county district school board-approved recess policies require a minimum of 100 minutes per week of recess. Email, Office of Program Policy Analysis and Government Accountability (Feb. 20, 2017); see also Office of Program Policy Analysis and Government Accountability, *OPPAGA Review of Recess Policies and Practices*, presentation to the Senate Appropriations Subcommittee on Pre-K - 12 Education (Feb. 15, 2017) available at [http://www.flsenate.gov/PublishedContent/Committees/2016-2018/AED/MeetingRecords/MeetingPacket\\_3645\\_2.pdf](http://www.flsenate.gov/PublishedContent/Committees/2016-2018/AED/MeetingRecords/MeetingPacket_3645_2.pdf), at 5. (last visited Mar. 23, 2017)

<sup>17</sup> Email, Office of Program Policy Analysis and Government Accountability (Feb. 17, 2017).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Office of Program Policy Analysis and Government Accountability, *OPPAGA Review of Recess Policies and Practices*, presentation to the Senate Appropriations Subcommittee on Pre-K - 12 Education (Feb. 15, 2017) available at [http://www.flsenate.gov/PublishedContent/Committees/2016-2018/AED/MeetingRecords/MeetingPacket\\_3645\\_2.pdf](http://www.flsenate.gov/PublishedContent/Committees/2016-2018/AED/MeetingRecords/MeetingPacket_3645_2.pdf), at 12 (last visited Mar. 23, 2017).

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not applicable.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1                                   A bill to be entitled  
 2           An act relating to public school recess; amending s.  
 3           1003.45, F.S.; allowing free-play recess to be part of  
 4           a physical education class for specified grade levels;  
 5           requiring a specified amount of free-play recess on  
 6           days physical education classes are not scheduled;  
 7           providing an effective date.

8  
 9   Be It Enacted by the Legislature of the State of Florida:

10  
 11           Section 1.   Section 1003.455, Florida Statutes, is amended  
 12   to read:

13           1003.455   Physical education; assessment.—

14           (1)   It is the responsibility of each district school board  
 15   to develop a physical education program that stresses physical  
 16   fitness and encourages healthful, active lifestyles and to  
 17   encourage all students in prekindergarten through grade 12 to  
 18   participate in physical education. Physical education shall  
 19   consist of physical activities of at least a moderate intensity  
 20   level and for a duration sufficient to provide a significant  
 21   health benefit to students, subject to the differing  
 22   capabilities of students. All physical education programs and  
 23   curricula must be reviewed by a certified physical education  
 24   instructor.

25           (2)   Each district school board shall adopt a written



26 physical education policy that details the school district's  
27 physical education program, the expected program outcomes, the  
28 benefits of physical education, and the availability of one-on-  
29 one counseling concerning the benefits of physical education.

30 (3) Each district school board shall provide 150 minutes  
31 of physical education each week for students in kindergarten  
32 through grade 5 and for students in grade 6 who are enrolled in  
33 a school that contains one or more elementary grades so that on  
34 any day during which physical education instruction is conducted  
35 there are at least 30 consecutive minutes per day. Physical  
36 education for students in kindergarten through grade 3 may  
37 include free-play recess. Beginning with the 2009-2010 school  
38 year, ~~t~~The equivalent of one class period per day of physical  
39 education for one semester of each year is required for students  
40 enrolled in grades 6 through 8. Students enrolled in such  
41 instruction shall be reported through the periodic student  
42 membership surveys, and records of such enrollment shall be  
43 audited pursuant to s. 1010.305. Such instruction may be  
44 provided by any instructional personnel as defined in s.  
45 1012.01(2), regardless of certification, who are designated by  
46 the school principal.

47 (4) The requirement in subsection (3) shall be waived for  
48 a student who meets one of the following criteria:

49 (a) The student is enrolled or required to enroll in a  
50 remedial course.

51 (b) The student's parent indicates in writing to the  
 52 school that:

53 1. The parent requests that the student enroll in another  
 54 course from among those courses offered as options by the school  
 55 district; or

56 2. The student is participating in physical activities  
 57 outside the school day which are equal to or in excess of the  
 58 mandated requirement.

59 (5) Each school district shall notify the student's parent  
 60 of the options available under subsection (4) before scheduling  
 61 the student to participate in physical education.

62 (6) In addition to the requirements in subsection (3),  
 63 each district school board shall provide free-play recess each  
 64 week on days when physical education classes are not held for  
 65 students in kindergarten through grade 3 so that there are at  
 66 least 20 consecutive minutes of free-play recess.

67 Section 2. This act shall take effect July 1, 2017.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 127 Public School Attendance Policies

**SPONSOR(S):** Plasencia

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 1128

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee		Dehmer	Healy
2) Children, Families & Seniors Subcommittee			
3) Education Committee			

### SUMMARY ANALYSIS

State law directs district school boards to establish attendance policies defining excused or unexcused absences or tardiness. Specific criteria for determining whether an absence or tardiness is excused or unexcused are determined by the district school board. The parent of a student who is absent from school must justify the absence, and the absence is evaluated based on the school board's attendance policies. If a student is continually sick and repeatedly absent from school, state law requires the student to be under a physician's supervision in order for the absences to be excused.

#### The bill

- requires district school boards to adopt student absence policies regarding student appointments to receive autism spectrum disorder therapy, including but not limited to, applied behavioral analysis, speech therapy and occupational therapy;
- allows a parent to request and be granted permission for a student's absence resulting from an appointment to receive therapy provided by a licensed health care practitioner for the treatment of autism spectrum disorder;
- provides that a written statement from a licensed health care practitioner for treatment of autism spectrum disorder satisfies a parent's responsibility for their child's nonattendance;
- allows a student who is continually sick and repeatedly absent to satisfy nonattendance requirement by being under the supervision of a licensed health care practitioner for the treatment of autism spectrum disorder.

There is no fiscal impact to the state.

The bill has an effective date of July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

State law directs district school boards to establish attendance policies defining excused or unexcused absences or tardiness. Specific criteria for determining whether an absence or tardiness is excused or unexcused are determined by the district school board.<sup>1</sup> The parent of a student who is absent from school must justify the absence, and the absence is evaluated based on the school board's attendance policies.<sup>2</sup> If a student is continually sick and repeatedly absent from school, state law requires the student to be under a physician's supervision in order for the absences to be excused. In such cases, the physician's excuse justifies absences beyond the maximum number of days permitted under the district school board's attendance policy.<sup>3</sup>

State law and state board rule also authorize a public school to grant permission to students, in accordance with the school district's rules, to be absent from school for religious instruction, religious holidays or because religious tenets forbid secular activity during the school day.<sup>4</sup>

##### Effect of Proposed Changes

The bill:

- requires district school boards to adopt student absence policies regarding student appointments to receive autism spectrum disorder therapy, including but not limited to, applied behavioral analysis, speech therapy and occupational therapy;
- allows a parent to request and be granted permission for a student's absence resulting from an appointment to receive therapy provided by a licensed health care practitioner for the treatment of autism spectrum disorder;
- provides that a written statement from a licensed health care practitioner for treatment of autism spectrum disorder satisfies a parent's responsibility for their child's nonattendance;
- allows a student who is continually sick and repeatedly absent to satisfy nonattendance requirement by being under the supervision of a licensed health care practitioner for the treatment of autism spectrum disorder.

The term "licensed" is defined in law as any permit, registration, certificate or license, including a provisional license, issued by the Department of Health.<sup>5</sup>

The term "health care practitioner" is defined in law as any person licensed under chapter 457 (acupuncture); chapter 458 (medical practice); chapter 459 (osteopathic medicine); chapter 460 (chiropractic medicine); chapter 461 (podiatric medicine); chapter 462 (naturopathy); chapter 463 (optometry); chapter 464 (nursing); chapter 465 (pharmacy); chapter 466 (dentistry); chapter 467 (midwifery); part I (speech-language pathology), part II (nursing home administration), part III (occupational therapy), part V (respiratory therapy), part X (dietetics and nutrition practice), part XIII (athletic trainers), or part XIV (orthotics, prosthetics and pedorthics) of chapter 468; chapter 478 (electrolysis); chapter 480 (massage practice); part III (clinical laboratory personnel) or part IV (medical physicists) of chapter 483; chapter 484 (dispensing of optical devices and hearing aids); chapter 486

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<sup>1</sup> Section 1003.24, F.S. (flush-left provisions at end of section).

<sup>2</sup> Section 1003.26, F.S.

<sup>3</sup> Section 1003.24(4), F.S.

<sup>4</sup> Sections 1002.20(2)(c) and 1003.21(2)(b), F.S.; rule 6A-1.09514(1) and (2), F.A.C.

<sup>5</sup> Section 456.001(5), F.S.

(physical therapy); chapter 490 (psychological services) or chapter 491 (clinical, counseling and psychotherapy services).<sup>6</sup>

**B. SECTION DIRECTORY:**

**Section 1.** Amends s. 1002.20, F.S., regarding K-12 student and parent rights.

**Section 2.** Amends s. 1003.21, F.S., relating to school attendance.

**Section 3.** Amends s. 1003.24, F.S., relating to parents responsibility of children.

**Section 4.** Provides an effective date of July 1, 2017.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

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<sup>6</sup> Section 456.001(4), F.S.  
**STORAGE NAME:** h0127.PK1.DOCX  
**DATE:** 3/23/2017

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The bill provides for a broad definition of health care practitioner for purposes of granting excuses for student absences.<sup>7</sup> It is unclear if each category of health care practitioner should be included for purposes of granting excuses for student absences.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not Applicable.

1                   A bill to be entitled  
 2           An act relating to public school attendance policies;  
 3           amending s. 1002.20, F.S; authorizing a parent to  
 4           request and be granted permission for a student's  
 5           absence from school for treatment of autism spectrum  
 6           disorder by a licensed health care practitioner;  
 7           amending s. 1003.21, F.S.; requiring each district  
 8           school board to adopt an attendance policy authorizing  
 9           a student's absence for treatment of autism spectrum  
 10          disorder; amending s. 1003.24, F.S.; revising an  
 11          exemption relating to parental responsibility for  
 12          nonattendance of a student to include treatment for  
 13          autism spectrum disorder; providing an effective date.

14  
 15 Be It Enacted by the Legislature of the State of Florida:

16  
 17           Section 1. Paragraph (c) of subsection (2) of section  
 18           1002.20, Florida Statutes, is amended, paragraph (d) is  
 19           redesignated as paragraph (e), and a new paragraph (d) is added  
 20           to that subsection, to read:

21           1002.20 K-12 student and parent rights.—Parents of public  
 22           school students must receive accurate and timely information  
 23           regarding their child's academic progress and must be informed  
 24           of ways they can help their child to succeed in school. K-12  
 25           students and their parents are afforded numerous statutory



26 | rights, including, but not limited to, the following:

27 |       (2) ATTENDANCE.—

28 |       (c) Absence for religious purposes.—A parent of a public  
 29 | school student may request and be granted permission for absence  
 30 | of the student from school for religious instruction or  
 31 | religious holidays, in accordance with the provisions of s.  
 32 | 1003.21(2)(b)1 ~~1003.21(2)(b)~~.

33 |       (d) Absence for treatment of autism spectrum disorder.—A  
 34 | parent of a public school student may request and be granted  
 35 | permission for absence of the student from school for an  
 36 | appointment scheduled to receive a therapy service provided by a  
 37 | licensed health care practitioner for the treatment of autism  
 38 | spectrum disorder pursuant to ss. 1003.21(2)(b)2. and  
 39 | 1003.24(4).

40 |       Section 2. Paragraph (b) of subsection (2) of section  
 41 | 1003.21, Florida Statutes, is amended to read:

42 |       1003.21 School attendance.—

43 |       (2)

44 |       (b) Each district school board, in accordance with rules  
 45 | of the State Board of Education, shall adopt policies  
 46 | authorizing a policy that authorizes a parent to request and be  
 47 | granted permission for absence of a student from school for:

- 48 |       1. Religious instruction or religious holidays.  
 49 |       2. An appointment scheduled to receive a therapy service  
 50 | provided by a licensed health care practitioner for the

51 treatment of autism spectrum disorder, including, but not  
 52 limited to, applied behavioral analysis, speech therapy, and  
 53 occupational therapy.

54 Section 3. Subsection (4) of section 1003.24, Florida  
 55 Statutes, is amended to read:

56 1003.24 Parents responsible for attendance of children;  
 57 attendance policy.—Each parent of a child within the compulsory  
 58 attendance age is responsible for the child's school attendance  
 59 as required by law. The absence of a student from school is  
 60 prima facie evidence of a violation of this section; however,  
 61 criminal prosecution under this chapter may not be brought  
 62 against a parent until the provisions of s. 1003.26 have been  
 63 complied with. A parent of a student is not responsible for the  
 64 student's nonattendance at school under any of the following  
 65 conditions:

66 (4) SICKNESS, INJURY, OR OTHER INSURMOUNTABLE CONDITION.—  
 67 Attendance was impracticable or inadvisable on account of  
 68 sickness or injury, as attested to by a written statement of a  
 69 licensed practicing physician, or a written statement of a  
 70 licensed health care practitioner for the treatment of autism  
 71 spectrum disorder, or was impracticable because of some other  
 72 stated insurmountable condition as defined by rules of the State  
 73 Board of Education. If a student is continually sick and  
 74 repeatedly absent from school, he or she must be under the  
 75 supervision of a physician, or care of a licensed health care

76 practitioner for the treatment of autism spectrum disorder, in  
 77 order to receive an excuse from attendance. Such excuse provides  
 78 that a student's condition justifies absence for more than the  
 79 number of days permitted by the district school board.

80  
 81 Each district school board shall establish an attendance policy  
 82 that includes, but is not limited to, the required number of  
 83 days each school year that a student must be in attendance and  
 84 the number of absences and tardinesses after which a statement  
 85 explaining such absences and tardinesses must be on file at the  
 86 school. Each school in the district must determine if an absence  
 87 or tardiness is excused or unexcused according to criteria  
 88 established by the district school board.

89 Section 4. This act shall take effect July 1, 2017.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: PreK-12 Innovation  
 2 Subcommittee

3 Representative Plasencia offered the following:

4  
5 **Amendment (with title amendment)**

6 Remove lines 37-76 and insert:

7 licensed health care practitioner or behavior analyst certified  
 8 pursuant to s. 393.17 for the treatment of autism spectrum  
 9 disorder pursuant to ss. 1003.21(2)(b)2. and 1003.24(4).

10 Section 2. Paragraph (b) of subsection (2) of section  
 11 1003.21, Florida Statutes, is amended to read:

12 1003.21 School attendance.—

13 (2)

14 (b) Each district school board, in accordance with rules  
 15 of the State Board of Education, shall adopt policies

16 authorizing a policy that authorizes a parent to request and be



Amendment No. 1

17 granted permission for absence of a student from school for:

18 1. Religious instruction or religious holidays.

19 2. An appointment scheduled to receive a therapy service  
20 provided by a licensed health care practitioner or behavior  
21 analyst certified pursuant to s. 393.17 for the treatment of  
22 autism spectrum disorder, including, but not limited to, applied  
23 behavioral analysis, speech therapy, and occupational therapy.

24 Section 3. Subsection (4) of section 1003.24, Florida  
25 Statutes, is amended to read:

26 1003.24 Parents responsible for attendance of children;  
27 attendance policy.—Each parent of a child within the compulsory  
28 attendance age is responsible for the child's school attendance  
29 as required by law. The absence of a student from school is  
30 prima facie evidence of a violation of this section; however,  
31 criminal prosecution under this chapter may not be brought  
32 against a parent until the provisions of s. 1003.26 have been  
33 complied with. A parent of a student is not responsible for the  
34 student's nonattendance at school under any of the following  
35 conditions:

36 (4) SICKNESS, INJURY, OR OTHER INSURMOUNTABLE CONDITION.—  
37 Attendance was impracticable or inadvisable on account of  
38 sickness or injury, as attested to by a written statement of a  
39 licensed practicing physician, or was impracticable because of  
40 some other stated insurmountable condition as defined by and  
41 attested to in accordance with rules of the State Board of

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Amendment No. 1

42 Education. If a student is continually sick and repeatedly  
43 absent from school, he or she must be under the supervision of a  
44 physician, or if the absence is related to the student having  
45 autism spectrum disorder, receiving services from a licensed  
46 health care practitioner or behavior analyst certified pursuant  
47 to 393.17, in

48

49

50

T I T L E A M E N D M E N T

51

Remove line 6 and insert:

52

disorder by a licensed health care practitioner or certified

53

behavior analyst;



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 371 Assistive Technology Devices  
**SPONSOR(S):** Ausley  
**TIED BILLS:** None **IDEN./SIM. BILLS:** CS/SB 772

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee		Dehmer	Healy
2) Education Committee			

### SUMMARY ANALYSIS

Federal law defines an assistive technology device as any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability and requires the school to meet a student's individual education plan (IEP) requirements regarding assistive technology. If the student moves from one school to another within the district, the assistive technology device must be provided at the new school. Whether or not a student may take his or her assistive technology device home is determined on an individual basis and should be specified in the IEP.

Certain agencies are required by law to enter into interagency agreements, as appropriate, to ensure the transaction of assistive technology devices in accordance with the student's individualized family support plan, individual support plan or IEP.

The bill revises provisions related to the use of assistive technology devices by students with disabilities by:

- clarifying that access to and use of the assistive technology device is essential for a student moving from school to home and community;
- specifying an individual work plan as one of the plans that may serve as the basis for issuing an assistive technology device to a student; and
- requiring the Office of Independent Education and Parental Choice, within the Florida Department of Education, to enter into interagency agreements with specified agencies, as appropriate, for the transaction of assistive technology devices.

There is no fiscal impact to the state, but there may be a fiscal impact to school districts. See Fiscal Comments.

The bill has an effective date of July 1, 2017.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

Federal law defines an assistive technology device as any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.<sup>1</sup> The term does not include a medical device that is surgically implanted or the replacement of such device.<sup>2</sup> Federal regulations require each federal public agency to ensure that assistive technology devices are made available to a child with a disability under certain circumstances.<sup>3</sup> Moreover, in order to receive federal assistance under the Assistive Technology Act, a state must assure the U.S. Secretary of Education that the state complies with the federal regulations.<sup>4</sup>

Florida law specifies assistive technology devices as manual wheelchairs, motorized wheelchairs, motorized scooters, voice-synthesized computer modules, optical scanners, talking software, braille printers, environmental control devices for use by a person with quadriplegia, motor vehicle adaptive transportation aids, devices that enable persons with severe speech disabilities to in effect speak, personal transfer systems, and specialty beds, including a demonstrator, that a consumer purchases or accepts transfer of in this state for use by a person with a disability.<sup>5</sup>

##### Special Education Services

Special education services (SES) means specially designed instruction and related services that are provided to exceptional students.<sup>6</sup> Florida law specifies the disabilities that qualify a student for SES.<sup>7</sup> The U.S. Individuals with Disabilities Education Act (IDEA) requires school districts to make a free appropriate public education (FAPE) available to such students ages 3 through 21.<sup>8</sup> A school district, at its discretion, may provide services to eligible children with disabilities below 3 years of age.<sup>9</sup> A FAPE must include special education and related services<sup>10</sup> that are provided by the public school system at

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<sup>1</sup> 20 U.S.C. s. 1401(1)(A).

<sup>2</sup> *Id.* at 1401(1)(B).

<sup>3</sup> 34 C.F.R. s. 300.105(a).

<sup>4</sup> *Id.* at 300.101.

<sup>5</sup> Section 427.802(1), F.S. A person with a disability means any person who has one or more permanent physical or mental limitations that restrict his or her ability to perform the normal activities of daily living and impede his or her capacity to live independently. Section 427.802(2), F.S.

<sup>6</sup> Section 1003.01(3)(b), F.S. Exceptional student means any student who has been determined eligible for a special program in accordance with rules of the State Board of Education. The term includes students who are gifted and students with disabilities who have an intellectual disability; autism spectrum disorder; a speech impairment; a language impairment; an orthopedic impairment; another health impairment; traumatic brain injury; a visual impairment; an emotional or behavioral disability; or a specific learning disability, including but not limited to dyslexia, dyscalculia, or developmental aphasia; students who are deaf or hard of hearing or dual sensory impaired; students who are hospitalized or homebound; children with developmental delays ages birth through 5 years, or children, ages birth through 2 years, with established conditions that are identified in State Board of Education rules pursuant to law. Section 1003.01(3)(a), F.S.

<sup>7</sup> Section 1003.01(3)(a)-(b), F.S.

<sup>8</sup> 20 U.S.C. s. 1400(d)(1)(A); 24 C.F.R. s. 300.101; Rules 6A-6.03028(1) and 6A-6.03411(1)(p), F.A.C.

<sup>9</sup> Rules 6A-6.0331 and 6A-6.03026, F.A.C.

<sup>10</sup> Related services means "transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes." Related services also include health services and school nurse services, social work services in schools, and parent counseling and training. 34 C.F.R. s. 300.34(a).

no cost to the parent, that meet the standards of the state, and that are in conformity with the student's individual education plan (IEP).<sup>11</sup>

### Individual Education Plans

For each eligible child with a disability served by a school district, or other state agency that provides special education and related services directly, by contract, or through other arrangements, an IEP or individual family support plan must be developed, reviewed and revised.<sup>12</sup>

An IEP team must meet to develop a plan for the student's needs within 30 days of determining a student's eligibility for SES.<sup>13</sup> The multidisciplinary IEP team includes school and district staff and other experts, if necessary.<sup>14</sup> Parents also participate in the plan development, which may not be implemented without parental consent to a student's initial placement into the SES program.<sup>15</sup>

The IEP sets forth a child's academic achievement and functional performance, describes how the child will be included in the general education curriculum, establishes annual goals for the child and describes how those goals will be measured, directs what special education and related services are needed, describes how the child will be appropriately assessed, including the use of alternate assessments, and determines what accommodations may be appropriate for the child's instruction and assessment.<sup>16</sup> All IEP teams must consider whether a student with disability requires assistive technology devices and services.<sup>17</sup>

### Use and Transfer of Devices

Federal law requires the school to meet the student's IEP requirements regarding assistive technology.<sup>18</sup> If the student moves from one school to another school within the district, the assistive technology device must be provided at the new school.<sup>19</sup> The same device does not necessarily need to follow the student, but the transfer of assistive devices from school to school is encouraged because students benefit from continued use of the same device.<sup>20</sup> If the student moves to another district, federal regulation provides that agencies or districts make the equipment available for use in other districts, until the new district adopts the student's prior IEP or executes a new IEP.<sup>21</sup>

Whether or not a student may take his or her assistive technology device home is determined on an individual basis and should be specified in the IEP.<sup>22</sup> If the student requires assistive technology in order to complete homework assignments or practice skills that require the device, such as communication or socialization, it should be specified in the IEP.<sup>23</sup> Not all assistive technology may be required for home use.<sup>24</sup> Use of the assistive technology device over the summer is also determined on an individual basis and should be specified in the IEP.<sup>25</sup>

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<sup>11</sup> 34 C.F.R. s. 300.17; Rule 6A-6.03411(1)(p), F.A.C.

<sup>12</sup> Rule 6A-6.03028(3), F.A.C.

<sup>13</sup> Rules 6A-6.03028(3)(f) and 6A-6.030190(6)(b), F.A.C.

<sup>14</sup> Rules 6A.03028(3)(c), 6A-6.030191(3), and 6A-6.03029(6), F.A.C.

<sup>15</sup> Rule 6A-6.0331(9), F.A.C.

<sup>16</sup> Rules 6A-6.03028(3)(h), 6A-6.03029(3), and 6A-6.030191(4), F.A.C.

<sup>17</sup> 34 C.F.R. s. 300.324(a)(2)(v); Rule 6A-6.03028(3)(g)11., F.A.C.

<sup>18</sup> 34 C.F.R. s. 300.323(e).

<sup>19</sup> *Id.*

<sup>20</sup> Florida Department of Education, Bureau of Exceptional Education and Student Services, *Assistive Technology for Students with Disabilities*, Technical Assistance Paper FY 2013-65 (Aug. 2013), at 13-14.

<sup>21</sup> 34 C.F.R. s. 300.323(e).

<sup>22</sup> Florida Department of Education, Bureau of Exceptional Education and Student Services, *Assistive Technology for Students with Disabilities*, Technical Assistance Paper FY 2013-65 (Aug. 2013), at 12.

<sup>23</sup> Florida Department of Education, Bureau of Exceptional Education and Student Services, *Assistive Technology for Students with Disabilities*, Technical Assistance Paper FY 2013-65 (Aug. 2013), at 12.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

The federal IDEA and regulations specify that it is the school's responsibility to provide transition services.<sup>26</sup> The transition planning must begin by age 14 or grade 8, whichever occurs first.<sup>27</sup> A student's IEP should include a statement of assistive technology needed under transition services, including a statement indicating agency responsibilities and linkages, if appropriate.<sup>28</sup> It is the school district's responsibility to provide a plan for the transition of assistive technology as the student prepares for postsecondary education, vocational placement, independent living and community experiences.<sup>29</sup> If the student will benefit from continued use of the same device, the transition of technology from school to the post-school setting is encouraged.<sup>30</sup> The IEP team must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services, such as assistive technology services and devices.<sup>31</sup> However, if the participating agency fails to provide the transition services and assistive technology defined in the IEP, the school district must reconvene the IEP team to identify alternative strategies in order to meet the transition objective.<sup>32</sup>

Upon request by a student or his or her parent, the district may transfer assistive technology to the postsecondary setting.<sup>33</sup> The transfer must follow the proper interagency agreement procedures, with the receiving agency documenting support of the equipment.<sup>34</sup>

### Interagency Agreements

Certain agencies are required by law to enter into interagency agreements, as appropriate, to ensure the transaction of assistive technology devices in accordance with the student's individualized family support plan, individual support plan, or individual education plan.<sup>35</sup> The interagency agreements provide the framework for ensuring that students with disabilities, their families, educators, and employers are informed about the utilization and coordination of assistive technology devices and services to help such students transition from school to postschool.<sup>36</sup> The agreements also ensure that all agencies are informed about the needed assistive technology, the content of the transition plan, and the post-school support required to meet student needs.<sup>37</sup>

The Florida Interagency Agreement for the Transfer of Assistive Technology was entered in September of 2006, between the following agencies:<sup>38</sup>

- Florida Infants and Toddlers early Intervention Program (Early Steps) of the Division of Children's Medical Services of the Department of Health;
- The Division of Blind Services of the Department of Education;
- The Division of Vocational Rehabilitation of the Department of Education;
- The Voluntary Prekindergarten Education Program of the Department of Education and the Agency for Workforce Innovation; and

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<sup>26</sup> 34 C.F.R. s. 300.320(b).

<sup>27</sup> Rule 6A-6.03028(3)(b)4., F.A.C.

<sup>28</sup> Florida Department of Education, Bureau of Exceptional Education and Student Services, *Assistive Technology for Students with Disabilities*, Technical Assistance Paper FY 2013-65 (Aug. 2013), at 14.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> 34 C.F.R. s. 300.321(b)(3); s. 1003.575, F.S.

<sup>32</sup> Florida Department of Education, Bureau of Exceptional Education and Student Services, *Assistive Technology for Students with Disabilities*, Technical Assistance Paper FY 2013-65 (Aug. 2013), at 14.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> Section 1003.575, F.S.

<sup>36</sup> *Id.*

<sup>37</sup> Section 1003.575, F.S.

<sup>38</sup> Florida Department of Education, Bureau of Exceptional Education and Student Services, *Assistive Technology for Students with Disabilities*, Technical Assistance Paper FY 2013-65 (Aug. 2013).

- The Bureau of Exceptional Education and Student Services of the Department of Education.

### **Effect of Proposed Changes**

The bill revises provisions related to the use of assistive technology devices by students with disabilities by:

- clarifying that access to and use of the assistive technology device is essential for a student moving from school to home and community;
- specifying an individual work plan as one of the plans that may serve as the basis for issuing an assistive technology device to a student; and
- requiring the Office of Independent Education and Parental Choice, within the Florida Department of Education, to enter into interagency agreements with specified agencies, as appropriate, for the transaction of assistive technology devices.

#### **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 1003.575, F.S., relating to assistive technology devices and interagency agreements.

**Section 2.** Provides an effective date of July 1, 2017.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

According to the DOE analysis of HB 371, the bill may have an indeterminate fiscal impact for the school districts if the school districts are required to purchase additional assistive technology devices for utilization by students with disabilities at home and in the community.<sup>39</sup>

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

#### **D. FISCAL COMMENTS:**

None.

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<sup>39</sup> Florida Department of Education, HB 371 *Analysis* (2017), at 4.  
**STORAGE NAME:** h0371.PKI.DOCX  
**DATE:** 3/23/2017

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not applicable.

**2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not Applicable.

1                   A bill to be entitled  
 2           An act relating to assistive technology devices;  
 3           amending s. 1003.575, F.S.; revising provisions  
 4           relating to the accessibility and use of assistive  
 5           technology devices by persons with disabilities;  
 6           providing an effective date.

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 8   Be It Enacted by the Legislature of the State of Florida:

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 10           Section 1. Section 1003.575, Florida Statutes, is amended  
 11           to read:

12           1003.575 Assistive technology devices; findings;  
 13           interagency agreements.—Accessibility, utilization, and  
 14           coordination of appropriate assistive technology devices and  
 15           services are essential as a young person with disabilities moves  
 16           from early intervention to preschool, from preschool to school,  
 17           from one school to another, ~~and~~ from school to employment or  
 18           independent living, and from school to home and community. If an  
 19           individual education plan team makes a recommendation in  
 20           accordance with State Board of Education rule for a student with  
 21           a disability, as defined in s. 1003.01(3), to receive an  
 22           assistive technology assessment, that assessment must be  
 23           completed within 60 school days after the team's recommendation.  
 24           To ensure that an assistive technology device issued to a young  
 25           person as part of his or her individualized family support plan,

26 individual support plan, individual work plan, or ~~an~~ individual  
 27 education plan remains with the individual through such  
 28 transitions, the following agencies shall enter into interagency  
 29 agreements, as appropriate, to ensure the transaction of  
 30 assistive technology devices:

31 (1) The Early Steps Program in the Division of Children's  
 32 Medical Services of the Department of Health.

33 (2) The Division of Blind Services, the Bureau of  
 34 Exceptional Education and Student Services, the Office of  
 35 Independent Education and Parental Choice, and the Division of  
 36 Vocational Rehabilitation of the Department of Education.

37 (3) The Voluntary Prekindergarten Education Program  
 38 administered by the Department of Education and the Office of  
 39 Early Learning.

40

41 Interagency agreements entered into pursuant to this section  
 42 shall provide a framework for ensuring that young persons with  
 43 disabilities and their families, educators, and employers are  
 44 informed about the utilization and coordination of assistive  
 45 technology devices and services that may assist in meeting  
 46 transition needs, and shall establish a mechanism by which a  
 47 young person or his or her parent may request that an assistive  
 48 technology device remain with the young person as he or she  
 49 moves through the continuum from home to school to postschool.

50 Section 2. This act shall take effect July 1, 2017.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1131 Shared Use of Public School Playground Facilities

**SPONSOR(S):** Drake and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 984

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee		Dehmer	Healy
2) PreK-12 Appropriations Subcommittee			
3) Education Committee			

### SUMMARY ANALYSIS

While obesity flourishes due in part to inactivity, many of the state's playgrounds and athletic facilities on the grounds of public schools are closed to the public due in part to a lack in shared use agreements between a school district and a governmental or nongovernmental entity. The bill:

- requires the Department of Education (DOE) to provide technical assistance to school districts to promote community use of shared facilities;
- provides funding to the DOE to provide short-term grants to districts, establish guidelines for funding eligibility for the grants and develop a grant application process; and
- creates a Shared Use Task Force to identify barriers in creating shared use agreements and to make recommendations to facilitate the shared use of school facilities generally and in high-need communities.

This bill has an indeterminate fiscal impact on state government. A district school board may have a negative fiscal impact related to maintenance expenses, but only if it elects to enact a policy or enter into an agreement. See Fiscal Analysis & Economic Impact Statement.

The bill has an effective date of July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **Overweight Children and Adults**

The Centers for Disease Control and Prevention (CDC) estimates that 37.9% of American adults are obese and another 32.8% are overweight. The CDC also estimates that 17.4% of children age 6-11 and 20.6% of children age 12-19 and 17.4% are obese.<sup>1</sup> The prevalence of obesity among children has more than tripled since the 1970s.<sup>2</sup> The Surgeon General estimates 300,000 deaths per year may be attributed to obesity and reports that individuals who are obese have a 50-100% increased risk of premature death from all causes, when compared to individuals with a healthy weight.<sup>3</sup>

According to the CDC, youth who have access to opportunities for physical activity during non-school hours have higher overall levels of physical activity and are less likely to be overweight or obese.<sup>4</sup> The CDC cites increasing access to safe and appealing places to play and being active as strategies that communities can employ to combat youth obesity.<sup>5</sup> CDC's research indicates that approximately half of Florida's youth have access to parks and community centers in their neighborhood.<sup>6</sup>

##### **Public Access to Public School Facilities**

Florida law broadly authorizes district school boards and the boards of trustees of Florida College System institutions, state universities, and the Florida School for the Deaf and the Blind to allow the public access to educational facilities and grounds for any legal assembly, as a community use center, or a polling location.<sup>7</sup> Additionally, the law specifically requires each county and municipality located within the geographic area of a school district to enter into an interlocal agreement with the district school board to coordinate their respective growth and development plans and processes. Among other things, the interlocal agreement must include a process for determining where and how the school boards and local governments can share facilities for mutual benefit and efficiency.<sup>8</sup> Some district school boards currently authorize, through their interlocal agreements, public access to sports and recreational facilities on school campuses. The specific details related to such access, such as the hours the facility will be open and which party is liable for any damages or injuries sustained on the property, are contained in a separate "joint-use" agreement.<sup>9</sup>

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<sup>1</sup> Centers for Disease Control and Prevention, *Obesity and Overweight*, <http://www.cdc.gov/nchs/fastats/overwt.htm> (last visited Mar. 17, 2017).

<sup>2</sup> Centers for Disease Control and Prevention, Data and Statistics, *Childhood Obesity Facts*, <https://www.cdc.gov/healthyschools/obesity/facts.htm> (last visited Mar. 17, 2017).

<sup>3</sup> Office of the Surgeon General, *Overweight and Obesity as Public Health Problems in America*, <https://www.ncbi.nlm.nih.gov/books/NBK44210/> (last visited Mar. 17, 2017).

<sup>4</sup> Centers for Disease Control and Prevention, *Overweight and Obesity: A Growing Problem*, <http://www.cdc.gov/obesity/childhood/problem.html> (last visited Mar. 17, 2017).

<sup>5</sup> Centers for Disease Control and Prevention, *Strategies to Prevent Obesity and Other Chronic Diseases, The CDC Guide to Strategies to Increase Physical Activity in the Community*, [https://www.cdc.gov/obesity/downloads/PA\\_2011\\_WEB.pdf](https://www.cdc.gov/obesity/downloads/PA_2011_WEB.pdf) (last visited Mar. 17, 2017).

<sup>6</sup> Centers for Disease Control and Prevention, *Florida Action Plan*, [https://www.cdc.gov/physicalactivity/downloads/state\\_pdfs/14\\_248165\\_fl\\_tag508.pdf](https://www.cdc.gov/physicalactivity/downloads/state_pdfs/14_248165_fl_tag508.pdf) (last visited Mar. 17, 2017).

<sup>7</sup> Section 1013.10, F.S.; see also s. 1013.01(3), F.S. (defines "Board").

<sup>8</sup> Sections 163.31777(1) and (2)(g) and 1013.33(2) F.S.

<sup>9</sup> See, e.g., *Interlocal Agreement between Pinellas County, Florida, et al. and the School Board of Pinellas County, Florida*, at 4 (2012), available at [www.pinellascounty.org/Plan/pdf\\_files/1906\\_IA.pdf](http://www.pinellascounty.org/Plan/pdf_files/1906_IA.pdf) [hereinafter *Pinellas County Agreement*] (last visited Mar. 15, 2017).

According to the Florida Department of Education (DOE), school district facilities personnel have informally expressed support for providing public access to recreation and sports facilities. However, such personnel indicate that reaching a joint-use agreement to provide such access is highly dependent on variables related to individual facilities. Thus, agreements are typically considered on a facility-by-facility basis. Such personnel indicate that one barrier to expanding joint-use of, and public access to, school facilities is premises liability concerns.<sup>10</sup>

District school boards are not limited to partnering with governmental entities in joint-use agreements. If authorized by the school board's interlocal agreements, boards may establish joint-use agreements with private entities. For example, in 2003, a Best Financial Management Practices Review of the Duval County School District indicated that the school district had established 47 joint-use agreements with the City of Jacksonville, the YMCA and various community groups for the use of school facilities.<sup>11</sup>

### **Effect of Proposed Changes**

The bill requires the DOE to provide technical assistance to school districts including, but not limited to:

- individualized assistance;
- the creation of a shared use technical assistance toolkit containing useful information for school districts; and
- the development of a publicly accessible online database of shared use resources and existing shared use agreements.

The bill authorizes the DOE to:

- provide short-term grants to help school districts open their facilities for shared use before or after school hours;
- establish guidelines for funding eligibility;
- promote the availability of the funding statewide;
- provide technical assistance to applicants;
- evaluate applicants;
- determine allowable expenses, and disburse funding;
- annually post on its website and report to the Senate President and the Speaker of the House on the expenditure of funds;
- develop an application process for school districts to receive funding. The application must require that a school district:
  - demonstrate an active partnership with a local governmental agency or nonprofit organization or that the funds will be used to open school facilities for use by the public;
  - agree to fully implement its shared use project within the grant period;
  - abide by the conditions for receiving assistance;
  - provide the department with a copy of the school district's shared use agreement or shared use policy; and
  - collect and provide data and other information required by the department for monitoring, accountability and evaluation purposes.
- give funding priority to high-need communities, defined as communities in which at least 50 percent of children are eligible to receive free or reduced-price meals.

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<sup>10</sup> Florida Department of Education, *Legislative Bill Analysis for HB 431* (2012). For example, the Pinellas County interlocal agreement with the School Board of Pinellas County, among others, authorizes the parties to establish an agreement "for each instance of collocation and shared use to address legal liability, operating and maintenance costs, scheduling of use, and facility supervision or any other issues that may arise from collocation or shared use." *Pinellas County Agreement*, *supra* note 6, at 4.

<sup>11</sup> Office of Program Policy Analysis and Government Accountability, *Best Financial Management Practices Review of the Duval County School District*, Report No. 03-41, ch. 7 Facilities Construction, at 18-19 (Aug. 2003), available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=03-41> (last visited Mar. 15, 2017).

The bill creates a Shared Use Task Force to identify barriers in creating shared use agreements and to make recommendations to facilitate the shared use of school facilities generally and in high-need communities. The task force is composed of seven members appointed by the DOE, including a chair and vice chair, and shall submit a report of its findings and recommendations to the Senate President and the Speaker of the House by June 30, 2018.

**B. SECTION DIRECTORY:**

**Section 1.** Creates s. 1013.101, F.S., relating to shared use agreements.

**Section 2.** Creates the Shared Use Task Force.

**Section 3.** Provides an effective date of July 1, 2017.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The bill requires DOE to execute a number of provisions "...with funds as established in the General Appropriations Act...", however no specific amount is identified.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

The bill may have a minimal indeterminate fiscal impact on school districts that elect to utilize the provisions created by this bill. See Fiscal Comments.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not Applicable.

1                   A bill to be entitled  
 2           An act relating to the shared use of public school  
 3           playground facilities; creating s. 1013.101, F.S.;  
 4           providing legislative findings and intent; defining  
 5           terms; requiring the Department of Education to  
 6           provide specified assistance to school districts;  
 7           providing for funding as established in the General  
 8           Appropriations Act; specifying funding allocation  
 9           guidelines; requiring the department to annually post  
 10          information regarding specified allocations on its  
 11          website and report to the Legislature; requiring the  
 12          department to develop an application process for  
 13          school districts; requiring funding priority to be  
 14          given to high-need communities; creating the Shared  
 15          Use Task Force within the department; specifying the  
 16          purpose and membership of the task force; providing  
 17          requirements for electing a task force chair and vice  
 18          chair and conducting its meetings; requiring the  
 19          department to provide the task force with necessary  
 20          staff; requiring the task force to submit a report to  
 21          the Legislature by a specified date; providing for  
 22          expiration of the task force; providing for  
 23          rulemaking; providing an effective date.

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 25   Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 1013.101, Florida Statutes, is created to read:

1013.101 Shared use agreements.-

(1) LEGISLATIVE FINDINGS AND INTENT.-The Legislature finds that greater public access to recreation and sports facilities is needed to reduce the impact of obesity, diabetes, and other chronic diseases on personal health and health care expenditures. Public schools are equipped with taxpayer-funded indoor and outdoor recreation facilities that offer easily accessible opportunities for physical activity for residents of the community. The Legislature also finds that it is the policy of the state for district school boards to allow the shared use of school buildings and property by adopting policies allowing for shared use and implementing shared use agreements with local governmental entities and nonprofit organizations. The Legislature intends to increase the number of school districts that open their playground facilities to community use outside of school hours.

(2) DEFINITIONS.-As used in this section, the term:

(a) "High-need communities" means communities in which at least 50 percent of children are eligible to receive free or reduced-price meals at the school that will be the subject of the shared use agreement.

(b) "Shared use" means allowing access to school

51 playground facilities by community members for recreation or  
 52 another purpose of importance to the community through a shared  
 53 use agreement or a school district or school policy that opens  
 54 school facilities for use by government or nongovernmental  
 55 entities or the public.

56 (c) "Shared use agreement" means a written agreement  
 57 between a school district and a government or nongovernmental  
 58 entity which defines the roles, responsibilities, terms, and  
 59 conditions for community use of a school-owned facility for  
 60 recreation or other purposes.

61 (3) PROMOTION OF COMMUNITY USE OF SHARED FACILITIES.—The  
 62 department shall provide technical assistance to school  
 63 districts, including, but not limited to, individualized  
 64 assistance, the creation of a shared use technical assistance  
 65 toolkit containing useful information for school districts, and  
 66 the development of a publicly accessible online database of  
 67 shared use resources and existing shared use agreements.

68 (4) FUNDING.—The department shall do all of the following  
 69 with funds as established in the General Appropriations Act:

70 (a) Provide short-term grants to help school districts  
 71 open their facilities for shared use before or after school  
 72 hours, including evenings, weekends, and school vacations.

73 (b) Establish guidelines for funding eligibility  
 74 consistent with this section, promote the availability of the  
 75 funding statewide, provide technical assistance to applicants,



76 evaluate applicants, determine allowable expenses, and disburse  
77 funding.

78 (c) Annually post on its website and report to the  
79 President of the Senate and the Speaker of the House of  
80 Representatives the expenditure of the funds used to administer  
81 this section, including the total amount of funding distributed,  
82 the school districts that received funding, the amount of  
83 funding each school district received, and the department's  
84 evaluation results.

85 (d) Develop an application process for school districts to  
86 receive funding. The application must require that a school  
87 district:

88 1. Demonstrate that it has an active partnership with a  
89 local governmental agency or nonprofit organization or that the  
90 funds will be used to open school facilities for use by the  
91 public;

92 2. Agree to fully implement its shared use project within  
93 the grant period;

94 3. Abide by the conditions for receiving assistance;

95 4. Provide the department with a copy of the school  
96 district's shared use agreement or shared use policy; and

97 5. Collect and provide data and other information required  
98 by the department for monitoring, accountability, and evaluation  
99 purposes.

100 (e) Give funding priority to high-need communities. In

101 consultation with the Shared Use Task Force, the department may  
 102 establish additional criteria for funding priorities consistent  
 103 with this section.

104 Section 2. Shared Use Task Force.—The Shared Use Task  
 105 Force, a task force as defined in s. 20.03, Florida Statutes, is  
 106 created within the Department of Education. The task force is  
 107 created to identify barriers in creating shared use agreements  
 108 and to make recommendations to facilitate the shared use of  
 109 school facilities generally and in high-need communities.

110 (1) The task force is composed of 7 members appointed by  
 111 the department, as follows:

112 (a) Two representatives from school districts, including 1  
 113 representative from school districts 1 through 33 and 1  
 114 representative from school districts 34 through 67;

115 (b) One representative from a public health department;

116 (c) Two representatives from community-based programs in  
 117 high-need communities; and

118 (d) Two representatives from recreational organizations.

119 (2) The task force shall elect a chair and vice chair. The  
 120 chair and vice chair may not be representatives from the same  
 121 member category. Members of the task force shall serve without  
 122 compensation, but are entitled to reimbursement for per diem and  
 123 travel expenses pursuant to s. 112.061, Florida Statutes.

124 (3) The task force shall meet by teleconference or other  
 125 electronic means, if possible, to reduce costs.

126           (4) The department shall provide the task force with staff  
 127 necessary to assist the task force in the performance of its  
 128 duties.

129           (5) The task force shall submit a report of its findings  
 130 and recommendations to the President of the Senate and the  
 131 Speaker of the House of Representatives by June 30, 2018. Upon  
 132 submission of the report, the task force shall expire.

133           (6) The State Board of Education shall adopt rules to  
 134 implement and administer this section.

135           Section 3. This act shall take effect July 1, 2017.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1365 Early Childhood Music Education Incentive Pilot Program  
**SPONSOR(S):** Ahern  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 824

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee		Dehmer	Healy
2) PreK-12 Appropriations Subcommittee			
3) Education Committee			

### SUMMARY ANALYSIS

Some studies have indicated a correlation between instruction in fine and performing arts and student achievement in core academic subjects, including reading and math. However, while the number of elementary music classes has increased statewide, some school districts do not have any elementary students enrolled in music courses.

The bill establishes the 3-year Early Childhood Music Education Incentive Pilot Program in the Department of Education to assist selected school districts in implementing comprehensive music education programs for students in kindergarten through grade 2. The bill establishes eligibility requirements for participating school districts and requires the Commissioner of Education to select qualifying schools to participate in the pilot program. Each participating school district's superintendent must annually certify to the commissioner that the district meets the eligibility requirements for the pilot program.

The bill requires the University of Florida's College of Education to evaluate the effectiveness of the program based on student performance and the success of the program. The evaluation must at least include a quantitative analysis of student achievement and a qualitative evaluation of students enrolled in the comprehensive music education programs.

There is an indeterminate fiscal impact to the state. See FISCAL COMMENTS.

The bill takes effect July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

###### *Positive Effects of Music Education*

Some studies have indicated a correlation between instruction in fine and performing arts and student achievement in core academic subjects, including reading<sup>1</sup> and math.<sup>2</sup> Additionally, a variety of aspects of cognitive development have been shown to be positively linked with music instruction in school, including spatial-temporal abilities, selective attention, and memory for verbal stimuli.<sup>3</sup> Further, some research has identified a positive association between music education and increases in student self-esteem, academic success, and discipline.<sup>4</sup>

###### *Visual and Performing Arts Academic Standards and Student Enrollment*

The state's academic standards are required to include standards for instruction for visual and performing arts. Such standards must include specific curricular content and include distinct grade level expectations for the core content knowledge and skills that a student is expected to have acquired by each individual grade level from kindergarten through grade five.<sup>5</sup>

Current law requires the commissioner to prepare an annual report that includes information, based on annual reporting by schools, regarding student access to, and participation in, fine arts courses; the number and certification status of educators providing arts instruction; educational facilities designed and classroom space equipped for fine arts instruction; and the manner in which schools are providing the core curricular content for fine arts established in the Next Generation Sunshine State Standards. The report must be posted on the Department of Education's website and updated annually.

Fine arts courses, for purposes of the annual report, include visual arts, music, dance, and theatre courses. According to the latest annual report the number of elementary music classes has increased statewide.

2011-12		2012-13		2013-14		2014-15	
# of Classes	% of Classes	# of Classes	% of Classes	# of Classes	% of Classes	# of Classes	% of Classes
6,683	20.0%	10,806	26.5%	10,940	27.7%	10,375	26.2%

However, in some school districts there is no student enrollment in K-5 music programs.<sup>6</sup>

<sup>1</sup> See, e.g., The President's Committee on the Arts and The Arts Education Partnership, *Champions of Change: The Impact of the Arts on Learning* (1999), available at <http://artsedge.kennedy-center.org/champions/pdfs/ChampsReport.pdf>; James S. Catterall, et al, National Endowment for the Arts, *The Arts and Achievement in At-Risk Youth: Findings from Four Longitudinal Studies* (2012), available at <http://www.nea.gov/research/Arts-At-Risk-Youth.pdf>.

<sup>2</sup> M.F. Gardiner, et al, *Learning Improved by Arts Training*, 381 NATURE 284 (1996).

<sup>3</sup> See, e.g., Lois Hetland, *Learning to Make Music Enhances Spatial Reasoning*, 34 J. Aesthetic Ed. 179 (2000); Hurwitz, et al, *Nonmusical Effects of the Kodaly Music Curriculum in Primary Grade Children*, 8 J. LEARNING DISABILITIES 167 (1975); Yim-Chi Ho, et al, *Music Training Improves Verbal but Not Visual Memory: Cross-Sectional and Longitudinal Explorations in Children*, 17 NUEROPSYCHOLOGY 439 (2003).

<sup>4</sup> See e.g., Cecil Adderley, et al, "A home away from home": *The world of the high school music classroom*, 51 J. MUSIC RES. 190 (2003).

<sup>5</sup> Section 1003.41(2)(e), F.S.

<sup>6</sup> School districts with no reported enrollment in music programs include: Dixie, Franklin, Gilchrist, Glades, Gulf, Hamilton, and Lafayette. See Florida Department of Education, *Fine Arts Enrollment*, accessible at *PK-20 Education Data Warehouse* at <http://www.fldoe.org/accountability/data-sys/edw/> (last visited Mar. 24, 2017).

## Effect of Proposed Changes

The bill establishes the 3-year Early Childhood Music Education Incentive Pilot Program in the Department of Education to assist selected school districts in implementing comprehensive music education programs for students in kindergarten through grade 2.

The bill establishes eligibility requirements for participating school districts and requires the district school superintendent to certify to the Commissioner of Education that the district meets the criteria each year it participates in the program. To be eligible, each school in the district must have established a comprehensive music education program that:

- Includes all students enrolled in kindergarten through grade 2.
- Is staffed by “certified music educators.”
- Provides music instruction for a least 30 consecutive minutes 2 days a week.
- Complies with class size requirements under s. 1003.03, F.S.<sup>7</sup>
- Complies with the “department’s standards for early childhood music education programs” for students in kindergarten through grade 2.

The commissioner must select school districts for participation in the pilot program, subject to legislative appropriation, based on the school district’s proximity to the University of Florida and needs-based criteria established by the State Board of Education. Selected school districts must annually receive \$150 per full-time equivalent student in kindergarten through grade 2.

Each selected school district must recertify to the commissioner each year of the pilot program that it meets the eligibility requirements established by the bill. If a selected school district does not provide the annual certification for a fiscal year, the school district must return all funds received through the pilot program for that fiscal year.

The bill requires the University of Florida’s College of Education to evaluate the effectiveness of the program based on student performance and the success of the program. The evaluation must at least include a quantitative analysis of student achievement and a qualitative evaluation of students enrolled in the comprehensive music education programs.

The bill authorizes the State Board of Education to adopt rules to implement the pilot program.

The bill includes an expiration date of June 30, 2020 for this program.

### B. SECTION DIRECTORY:

**Section 1.** Creates s. 1003.481, F.S. relating to the Early Childhood Music Education Incentive Pilot Program.

**Section 2.** Provides an effective date of July 1, 2017.

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<sup>7</sup> Section 1, Article IX of the Florida Constitution requires the Legislature to make adequate provision to ensure that there are a sufficient number of classrooms in Florida so that the maximum number of students assigned to each teacher does not exceed 18 students for prekindergarten through 3rd grade, 22 students for 4th through 8th grades, and 25 students for 9th through 12th grades. Extracurricular courses are statutorily excluded from the class size mandate; thus, its requirements apply only to core curricula courses. Section 1003.03(1), F.S.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The bill proposes \$150 per full-time equivalent student in kindergarten through grade 2 in the participating schools, but it is unclear how many school districts the Commissioner may select and how many students would be participating.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The bill authorizes the State Board of Education to adopt rules to implement the pilot program.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

It is unclear the number of school districts the Commissioner may select to participate. The bill does not establish guidelines for the needs-based criteria that the State Board of Education must establish. The bill does not specify whether the University of Florida must report any findings based on its evaluation of participating school districts. It is unclear which subject areas must be evaluated with respect to student performance.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.



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A bill to be entitled  
 An act relating to the Early Childhood Music Education  
 Incentive Pilot Program; creating s. 1003.481, F.S.;  
 creating the Early Childhood Music Education Incentive  
 Pilot Program within the Department of Education for a  
 specified period; providing for school district  
 eligibility; providing comprehensive music education  
 program requirements; providing for school district  
 selection, funding, and program payments; requiring  
 selected school districts to annually provide a  
 specified certification to the Commissioner of  
 Education; requiring a selected school district to  
 return funds under certain circumstances; requiring  
 the University of Florida's College of Education to  
 perform an evaluation; authorizing the State Board of  
 Education to adopt rules; providing for expiration of  
 the pilot program; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1003.481, Florida Statutes, is created  
 to read:

1003.481 Early Childhood Music Education Incentive Pilot  
 Program.-

(1) Beginning with the 2017-2018 school year, the Early

26 Childhood Music Education Incentive Pilot Program is created  
 27 within the Department of Education for a period of 3 school  
 28 years. The purpose of the pilot program is to assist selected  
 29 school districts in implementing comprehensive music education  
 30 programs for students in kindergarten through grade 2.

31 (2) In order for a school district to be eligible for  
 32 participation in the pilot program, the superintendent must  
 33 certify to the Commissioner of Education, in a format prescribed  
 34 by the department, that each elementary school within the  
 35 district has established a comprehensive music education program  
 36 that:

37 (a) Includes all students at the school enrolled in  
 38 kindergarten through grade 2.

39 (b) Is staffed by certified music educators.

40 (c) Provides music instruction for at least 30 consecutive  
 41 minutes 2 days a week.

42 (d) Complies with class size requirements under s.  
 43 1003.03.

44 (e) Complies with the department's standards for early  
 45 childhood music education programs for students in kindergarten  
 46 through grade 2.

47 (3)(a) The commissioner shall select school districts for  
 48 participation in the pilot program, subject to legislative  
 49 appropriation, based on the school district's proximity to the  
 50 University of Florida and needs-based criteria established by

51 the State Board of Education. Selected school districts shall  
 52 annually receive \$150 per full-time equivalent student in  
 53 kindergarten through grade 2 who is enrolled in a comprehensive  
 54 music education program.

55 (b) To maintain eligibility for participation in the pilot  
 56 program, a selected school district must annually certify to the  
 57 commissioner, in a format prescribed by the department, that  
 58 each elementary school within the district provides a  
 59 comprehensive music education program that meets the  
 60 requirements of subsection (2). If a selected school district  
 61 fails to provide the annual certification for a fiscal year, the  
 62 school district must return all funds received through the pilot  
 63 program for that fiscal year.

64 (4) The University of Florida's College of Education shall  
 65 evaluate the effectiveness of the pilot program by measuring  
 66 student academic performance and the success of the program. The  
 67 evaluation must include, but is not limited to, a quantitative  
 68 analysis of student achievement and a qualitative evaluation of  
 69 students enrolled in the comprehensive music education programs.

70 (5) The State Board of Education may adopt rules to  
 71 administer this section.

72 (6) This section expires June 30, 2020.

73 Section 2. This act shall take effect July 1, 2017.

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## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB PKI 17-01 Charter Schools  
**SPONSOR(S):** PreK-12 Innovation Subcommittee  
**TIED BILLS:** None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: PreK-12 Innovation Subcommittee		Dehmer	Healy

### SUMMARY ANALYSIS

The bill:

- requires sponsors to use the standard charter contract developed by the Department of Education (DOE) without any alterations;
- removes the cap on high-performing charter schools that wish to replicate in low-performing areas;
- provides a high-performing charter school whose application for replication has been denied a hearing through the Charter School Appeals Commission
- provides for a streamlined application for a high-performing charter school system wishing to replicate schools;
- clarifies that student performance data from eligible students attending an alternative charter school shall be included in the calculation of the home school's grade as well as high school students who transfer to a private school for which the school district subsidizes, in whole or in part, the enrollment fees;
- includes the charter school in the waiver of sovereign immunity in cases of tort liability;
- requires school districts to share the discretionary millage with charter-schools-in-a-municipality if the school is owned and directly operated by the municipality;
- clarifies administrative fees for charter schools, high-performing charter schools and charter school systems;
- removes the requirement that the online learning portion of a blended learning model be in a classroom setting at the charter school;
- clarifies that charter school cooperatives may form to further educational, operational and administrative initiatives;
- specifies that a not-for-profit or municipal entity operating a charter school may use unrestricted surplus or net assets of their charter school(s) for K-12 educational purposes in their other schools;
- extends the option for local education agency status to other charter schools by redefining "charter school system;"
- requires DOE to develop and administer a survey for charter schools to report on the timeliness and effectiveness of administrative services provided by sponsors;
- changes the charter school application deadline from August 1 to February 1;
- deletes language regarding federal funds that conflicts with federal requirements for distribution of such funds;
- deletes the charter school student achievement comparison report;

The bill has no fiscal impact on the state. See Fiscal Comments.

The bill takes effect July, 1 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Charter School Applications

###### Present Situation

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor. This performance contract is known as a “charter.”<sup>1</sup> The charter exempts the school from many regulations applicable to traditional public schools to encourage the use of innovative learning methods.<sup>2</sup> One of the guiding principles of charter schools is to “meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state’s public school system.”<sup>3</sup>

An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality or a legal entity organized under Florida law.<sup>4</sup> The school must be operated by a Florida College System (FCS) institution, municipality or nonprofit organization. While a charter school must be a public or nonprofit entity, it may be managed by a for-profit education management organization.<sup>5</sup> A district school board may sponsor a charter school in the county over which the district school board has jurisdiction.<sup>6</sup>

A person or entity seeking to open a charter school must submit an application using the model application form prepared by the Department of Education (DOE).<sup>7</sup> A sponsor must receive and review all charter school applications using an evaluation instrument developed by the DOE. The deadline for submission of charter school applications is August 1 of each year for schools to be opened the following year. An applicant may submit a draft charter school application on or before May 1 with an application fee of \$500. If a draft application is timely submitted, the sponsor must review and provide feedback as to material deficiencies in the application by July 1. The applicant then has until August 1 to resubmit a revised and final application. The sponsor may approve the draft application.<sup>8</sup>

###### Effect of Proposed Changes

The bill revises the date a sponsor must receive all charter school applications from August 1, to February 1, for a charter school to open 18 months later or at a time agreed to by the applicant and the sponsor.

The bill removes the provision allowing a charter school applicant to submit a draft application to a sponsor for review.<sup>9</sup> The bill increases the amount of time the sponsor has to approve or deny an application from 60 to 90 days.

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<sup>1</sup> Section 1002.33(5)(a), (6)(h), (7) and (9)(a), F.S.

<sup>2</sup> Section 1002.33(2)(b)3. and (16), F.S.

<sup>3</sup> Section 1002.33(2)(a)1., F.S.

<sup>4</sup> Section 1002.33(3)(a), F.S.

<sup>5</sup> Section 1002.33(12)(i), F.S.

<sup>6</sup> Section 1002.33(5)(a)1., F.S.

<sup>7</sup> Section 1002.33(6)(a), F.S.

<sup>8</sup> Section 1002.33(6)(b), F.S.

<sup>9</sup>Note: The number of draft applications submitted declined from 43 in 2014 to 22 in 2015, *see* Annual Authorizer Reports, *available at* <http://www.fldoe.org/schools/school-choice/charter-schools/authorizers/annual-authorizer-reports.stml>.

## **Charter School Contract**

### **Present Situation**

Once an application is approved, the major issues involving the operation of a charter school, which are outlined in current law, must be considered in advance and written into the charter.<sup>10</sup> The DOE was required to create, through state board rule,<sup>11</sup> a standard charter contract in consultation with both school districts and charter schools, and sponsors are required to use this standard contract.<sup>12</sup> However, as a result of negotiations with stakeholders, the contract is used as "...the basis for the initial draft contract..." and may be amended.<sup>13</sup>

### **Effect of Proposed Changes**

The bill requires the sponsor and the charter school governing board to use the standard charter contract which incorporates the approved application and any addenda approved with the application. The standard contract cannot be altered in any way and any term or condition of a proposed contract that differs from the standard contract shall be presumed a limitation on charter school liability.

## **High Performing Charter Schools**

### **Present Situation**

A high-performing charter school is a charter school that during each of the three previous years:

- received at least two school grades of "A" and no school grade below "B;"
- has received an unqualified opinion on each annual financial audit; and
- has not received an annual financial audit that reveals a financial emergency condition.<sup>14</sup>

A high-performing charter school may, in any school district in the state, submit an application to establish a new charter school that replicates its educational program. The application must indicate that the charter school is "high-performing" and include the commissioner's eligibility letter.<sup>15</sup> Such applications may only be denied under certain circumstances.<sup>16</sup> A high-performing charter school may only establish one charter school in a year. A subsequent application to establish a charter school may only be submitted when each charter school established through replication achieves high-performing charter school status.<sup>17</sup>

If the sponsor denies an application submitted by a high-performing charter school, the sponsor must, within 10 calendar days after such denial, state in writing the specific reasons supporting the denial and must provide the letter of denial and supporting documentation to the applicant and to the DOE. The

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<sup>10</sup> Section 1002.33(7), F.S.

<sup>11</sup> Section 1002.33(28), F.S.

<sup>12</sup> Section 1002.33(21)(a), F.S.

<sup>13</sup> See Rule 6A-6.0786(3), F.A.C., available at <https://www.flrules.org/gateway/ruleNo.asp?id=6A-6.0786>.

<sup>14</sup> Section 1002.331(1), F.S. A financial emergency condition includes failure to pay short-term loans, make bond debt service or pay long-term debt payments due to lack of funds; failure to pay uncontested creditor claims within 90 days; failure to pay withheld employee income taxes or make employer contributions to social security or pensions; or failure for one pay period to pay wages, salaries, and retirement benefits owed. Section 218.503(1), F.S. A charter school in the workplace satisfies audit requirements if the auditor finds that sufficient monetary resources are available to cover any reported deficiency or if the deficiency does not result in a deteriorating financial condition. Section 1002.331(1)(c), F.S. A "deteriorating financial condition" is a circumstance that significantly impairs the ability of a charter school to generate enough revenues to meet its expenditures without causing the occurrence of a financial emergency condition described in s. 218.503(1), F.S. Section 1002.345(1)(a)3., F.S.

<sup>15</sup> Section 1002.331(3)(a), F.S.

<sup>16</sup> Section 1002.33(6)(b)3.b., F.S.

<sup>17</sup> Section 1002.331(3)(b), F.S.

applicant may appeal the sponsor's denial of the application directly to the State Board of Education (SBE).<sup>18</sup>

### **Effect of Proposed Changes**

The bill allows a high-performing charter school to establish more than one charter school a year only if it chooses to operate in and serve students from an area where a school is subject to differentiated accountability.<sup>19</sup>

The bill provides a high-performing charter school whose application has been denied a hearing by requiring that an appeal of such denial be brought before the Charter School Appeals Commission. The commission will make a recommendation to the SBE in accordance with current law.

### **High-Performing Charter School System**

A high-performing charter school system is an entity that:

- operated at least three high-performing charter schools in the state during each of the previous 3 school years;
- operated a system of charter schools in which at least 50 percent of the charter schools were high-performing charter schools and no charter school earned a school grade of "D" or "F" in any of the previous 3 school years regardless of whether the entity currently operates the charter school, with specified exceptions; and
- did not receive a financial audit that revealed one or more of the financial emergency conditions for any charter school assumed or established by the entity in the most recent 3 fiscal years for which such audits are available.<sup>20</sup>

A high-performing charter school system may replicate its high-performing charter schools using the current application process outlined in law.<sup>21</sup>

### **Effect of Proposed Changes**

The bill clarifies that a high-performing system may replicate a school in any district in the state and establishes a streamlined high-performing standard application form for replicating a high-performing charter school.

The bill requires the high-performing standard application form to:

- contain goals and objectives for improving and measuring student learning, including the expected amount of student yearly academic improvement, methods for evaluating success and the specific results to be attained through instruction;
- contain an annual financial plan for each year requested by the charter for operation of the school for up to 5 years;
- discloses the name of each applicant, governing board member and all proposed education services providers, the name and sponsor of any charter school operated by each applicant, each governing board member and each proposed education services provider that has closed and the reasons for the closure and the academic and financial history of such charter schools, which the sponsor shall consider in deciding whether to approve or deny the application.

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<sup>18</sup> Section 1002.33(6)(b)3.c., F.S.

<sup>19</sup> See s. 1008.33, F.S.

<sup>20</sup> Section 1002.332(1)(b), F.S.

<sup>21</sup> Section 1002.332(2), F.S.



The bill requires the review, approval, denial and appeals process for standard high-performing replication applications to comply with current processes in law.

### **Charter School Cooperatives**

#### **Present Situation**

The law authorizes charter schools to enter into cooperative agreements with other charter schools to provide planning and development, direct instructional services, and contracts with charter school governing boards to provide personnel administrative services, payroll services, human resource management, evaluation and assessment services, teacher preparation, and professional development.<sup>22</sup>

#### **Effect of Proposed Changes**

The bill deletes the list of specific services that cooperative agreements may provide and instead allows charter schools to enter into cooperative agreements to further any educational, operational or administrative purposes in which participating charter schools share common interests. This change expands the ability of charter schools to collaborate and pool resources for shared objectives.

### **Distribution of Student Funding**

#### **Present Situation**

Charter schools are funded through the Florida Education Finance Program (FEFP) the same as traditional public schools based on the number of students. Each charter school reports student enrollment to its sponsor<sup>23</sup> for inclusion in the district's report of student enrollment.<sup>24</sup> The following chart summarizes how a charter school's share of FEFP funds is determined:

<b>Calculating a Charter School's Share of FEFP Funds<sup>25</sup></b>
Sum of the school district's operating funds from the FEFP as provided in s. 1011.62, F.S., and the General Appropriations Act, including the district's gross state and local funds, discretionary lottery funds, and funds from the district's current operating discretionary tax levies.
÷ The total funded weighted full-time equivalent (FTE) students in the district.
x The weighted FTE students for the charter school.

A charter school is also entitled to receive its proportionate share of categorical funds included in the FEFP for students who qualify for the categorical.<sup>26</sup> Categorical funds must be spent for specified purposes, which include student transportation, safe schools, supplemental academic instruction, research-based reading, instructional materials, digital classrooms, classroom supplies and class-size reduction operating funds.<sup>27</sup> Sponsors are prohibited from requiring charter schools to adopt the school district's reading curriculum as a condition of receiving the research-based reading allocation.<sup>28</sup>

<sup>22</sup> Section 1002.33(13), F.S.

<sup>23</sup> A sponsor can be a district school board that approves the charter and holds the contract. Section 1002.33(5)(a)1., F.S.

<sup>24</sup> Section 1002.33(17)(a)-(b), F.S. To reflect any changes in enrollment, the charter school's funding is recalculated during the school year, based upon the October and February FTE enrollment surveys. *See s. 1002.33(17)(b)*, F.S.

<sup>25</sup> Section 1002.33(17)(b) and (c), F.S.

<sup>26</sup> Section 1002.33(17)(b), F.S.

<sup>27</sup> *See, e.g.*, s. 1011.62(1)(f), F.S. (supplemental academic instruction); s. 1011.62(6), F.S. (general categoricals), s. 1011.67, F.S. (instructional materials), s. 1011.62(12), F.S. (digital classrooms); s. 1011.68, F.S. (student transportation), s. 1011.685, F.S. (class size reduction), and s. 1012.71, F.S. (Florida Teachers Classroom Supply Assistance Program).

<sup>28</sup> Section 1002.33(17)(b), F.S.

## Effect of Proposed Changes

The bill authorizes a nonprofit organization or municipality that operates a charter school to use unrestricted surplus or unrestricted net assets from that school for K-12 educational purposes in other schools they operate in the state.

## Sponsor Services and Fees

### Present Situation

A sponsor must provide various administrative services to charter schools in their district including contract management; FTE and student achievement data reporting; exceptional student education program administration; eligibility and reporting for federal school lunch programs; test administration, including payment of the costs of state- or school district-required assessments; processing of teacher certification data and student information services.<sup>29</sup> As compensation for services provided, a sponsor may withhold an administrative fee of up to 5 percent of each charter school's total operating funds, based upon weighted FTE students.<sup>30</sup> A sponsor may only withhold the administrative fee for the first 250 students enrolled in each charter school.<sup>31</sup> A sponsor may withhold a 5 percent administrative fee for the first 500 students enrolled within a system of charter schools if the system:

- includes both conversion charter schools and nonconversion charter schools;
- has all schools located in the same county;
- has a total enrollment exceeding the total enrollment of at least one school district in the state;
- has the same governing board; and
- does not contract with a for-profit service provider for management of school operations.<sup>32</sup>

If the system meets these criteria and also qualifies for high-performing charter school system status, it may receive a reduction in the administrative fees from 5 percent to 2 percent for enrollments up to and including 500 students per system.<sup>33</sup> The total administrative fee for high-performing charter schools is up to 2 percent for enrollment up to and including 250 students per school.<sup>34</sup>

When 75 percent or more of the students enrolled in the charter school are exceptional students, including gifted students, the 5 percent administrative fee is calculated based upon unweighted FTE students.<sup>35</sup> For virtual charter schools, the sponsor may withhold a fee of up to 5 percent of the school's total operating funds; however, the fee must be used to cover the cost of sponsor-provided services and for implementation of the school district's digital classrooms plan.<sup>36</sup> Sponsors are prohibited from imposing additional fees or surcharges for services provided.<sup>37</sup>

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<sup>29</sup> Section 1002.33(20)(a)1., F.S. See also, Florida Attorney General Opinion, AGO 2013-04, stating that the administrative fee includes costs to administer state district assessments, available at

<http://www.myfloridalegal.com/ago.nsf/Opinions/D20AD30420BB793B85257B3C0052B3A6>.

<sup>30</sup> Section 1002.33(20)(a)2., F.S.

<sup>31</sup> Section 1002.33(20)(a)2., F.S. When a charter school's enrollment exceeds 250 students, it must reserve an amount of total operating funds equal to the difference between the total administrative fee calculation and the actual amount withheld for capital outlay purposes. *Id.*

<sup>32</sup> Section 1002.33(20)(a)4., F.S. When the enrollment within a system of charter schools exceeds 500 students, an amount of total operating funds equal to the difference between the total administrative fee calculation and the actual amount withheld may only be used for instructional, administrative, or capital outlay purposes. Section 1002.33(20)(a)5., F.S.

<sup>33</sup> Section 1002.33(20)(a)4. and 6., F.S.

<sup>34</sup> Section 1002.33(20)(a)3., F.S.

<sup>35</sup> Section 1002.33(20)(a)2., F.S.

<sup>36</sup> Section 1002.33(20)(a)8., F.S.

<sup>37</sup> Section 1002.33(20)(a)7., F.S.

## **Effect of Proposed Changes**

The bill specifies language regarding administrative fees for charter schools, high-performing charter schools, and charter school systems and removes the restrictions on eligible expenditures of the funds resulting from the difference between the total calculated amount of administrative fees and the amount the district may withhold.

The bill also requires charter schools to annually complete and submit a survey to rate the timeliness and effectiveness of administrative services provided by sponsors. The DOE must develop and administer the survey, compile the results by district, and include them in the annual authorizer report required in s. 1002.33(5)(b)1.k.III.

## **Public Information on Charter Schools**

### **Present Situation**

The DOE must annually provide a statewide analysis and comparison of charter school students and traditional public school students, as measured by the statewide assessment program and information reported in each school's annual progress report.<sup>38</sup> The DOE's analysis compares the overall performance of charter school and traditional public school students and that of student subgroups, e.g, demographics, low income and students with disabilities. Comparison data must also be broken down by the following grade groupings:

- Grades 3 through 5
- Grades 6 through 8 and
- Grades 9 through 11.<sup>39</sup>

The report analyzes the assessment results of charter and traditional public schools in 177 different comparisons in terms of proficiency, learning gains and achievement gap.<sup>40</sup>

### **Effect of Proposed Changes**

The bill removes the provision that charter school student performance data be compared to student performance data of traditional public schools.

## **Local Educational Agency Status for Certain Charter School Systems**

### **Present Situation**

A system of charter schools may serve as a local education agency (LEA) if the governing board adopts and files a resolution with its sponsor and the DOE in which the governing board accepts the full responsibility for all LEA requirements and the system of charter schools:

- includes both conversion charter schools and nonconversion charter schools;
- has all schools located in the same county;
- has a total enrollment exceeding the total enrollment of at least one school district in the state;
- has the same governing board; and
- does not contract with a for-profit service provider for management of school operations.<sup>41</sup>

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<sup>38</sup> Section 1002.33(23), F.S.

<sup>39</sup> Section 1002.33(21)(b)3.a., F.S.

<sup>40</sup> Florida Department of Education, *Student Achievement in Florida's Charter Schools: A Comparison of the Performance of Charter School Students with Traditional Public School Students*, at v (June 2015), available at [http://www.fldoe.org/core/fileparse.php/7778/urlt/Charter\\_Student\\_Achievement\\_Report\\_1314.pdf](http://www.fldoe.org/core/fileparse.php/7778/urlt/Charter_Student_Achievement_Report_1314.pdf).

<sup>41</sup> Section 1002.33(25), F.S.

## Effect of Proposed Changes

The bill revises LEA eligibility status by removing the requirements that a system of charter schools include both conversion charter schools and nonconversion charter schools and the system does not contract with a for-profit service provider for management of school operations.

## School Grades

### Present Situation

School grades are used to explain a school's performance in a familiar, easy-to-understand manner for parents and the public.<sup>42</sup> School grades are also used to determine whether a school must select or implement a turnaround option<sup>43</sup> or whether a school is eligible for school recognition funds as appropriated by the Legislature.<sup>44</sup>

An alternative school may opt for a school improvement rating instead of a school grade.<sup>45</sup> The school improvement rating is calculated using student learning gains on statewide, standardized English Language Arts and Math assessments for all eligible students who are enrolled in the school and who have assessment scores or comparable scores for the preceding school year.<sup>46</sup> Schools that improve their ratings by at least one level or maintain a "commendable" rating are eligible for school recognition awards.<sup>47</sup> The school improvement rating identifies an alternative school as having one of the following ratings:

- **Commendable:** a significant percentage of the students attending the school are making learning gains
- **Maintaining:** a sufficient percentage of the students attending the school are making learning gains
- **Unsatisfactory:** an insufficient percentage of the students attending the school are making learning gains<sup>48</sup>

Current law requires that the student performance data for eligible students attending alternative schools that provide dropout prevention and academic intervention are included in the calculation of the home school's grade.<sup>49</sup>

## Effect of Proposed Changes

The bill provides that student performance data from eligible students attending an alternative charter school shall be included in the calculation of the home school's grade, as well as a high school student who transfers to a private school with which the school district has a contractual agreement.

The bill also allows the use of concordant scores, in addition to assessment scores or comparable scores, in determining an alternative school's school improvement rating.

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<sup>42</sup> Section 1008.34(1), F.S. If there are fewer than 10 eligible students with data for a component, the component is not included in the calculation. Section 1008.34(3)(a), F.S.

<sup>43</sup> Section 1008.33(4), F.S.

<sup>44</sup> Section 1008.26, F.S.

<sup>45</sup> School improvement ratings, which do not include an academic achievement component but instead focus on learning gains, are offered to alternative schools because the students at these schools are often enrolled in more than one school within the school year. All alternative students' learning gains scores are included in either the alternative school or home school accountability report. *See ESEA Flexibility Request* at 67, note 34, *supra*.

<sup>46</sup> Section 1008.341(3), F.S.

<sup>47</sup> Section 1008.341(2), F.S. (flush left provisions at the end of the subsection).

<sup>48</sup> Section 1008.341(2)(a)-(c), F.S.

<sup>49</sup> Section 1008.34(3)(d)1., F.S.

## **Facilities**

### **Present Situation**

Any facility or portion of a facility, used to house a charter school is exempt from ad valorem taxes, and specified entities, including a library, community service, museum, performing arts, theatre, cinema, church, Florida College System institution, college, and university may provide space to charter schools within their facilities under their preexisting zoning and land use designations.<sup>50</sup>

### **Effect of Proposed Changes**

The bill clarifies that the entities listed above may provide space to charter schools, and the charter school shall not have to obtain any special exception, rezoning, land use charter or other approval.

## **Charter School Capital Outlay Funding**

### **Present Situation**

To be eligible for charter school capital outlay funding, a charter school must:

- have been in operation for at least two years;
- be governed by a governing board established in Florida for three or more years which operates both charter schools and conversion charter schools within the state;
- be part of an expanded feeder chain<sup>51</sup> with an existing charter school in the district that is currently receiving charter school capital outlay funds;
- be accredited by the Commission on Schools of the Southern Association of Colleges and Schools; or
- serve students in facilities that are provided by a business partner for a charter school-in-the-workplace.

In addition, a charter school must;

- have an annual audit that does not reveal a financial emergency for the most recent fiscal year for which such audit results are available,<sup>52</sup>
- have satisfactory student achievement based upon the state accountability standards applicable to charter schools;
- have received final approval from its sponsor for operation during that fiscal year; and
- serve students in facilities that are not provided by the charter school sponsor.<sup>53</sup>

### **Effect of Proposed Changes**

The bill removes the requirement that a charter school have satisfactory student achievement based upon the state accountability standards applicable to charter schools to be eligible for charter school capital outlay funding.

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<sup>50</sup> Section 1002.33(18)(c), F.S.

<sup>51</sup> A charter school may be considered a part of an expanded feeder chain under s. 1013.62, F.S., if it either sends or receives a majority of its students directly to or from a charter school that is currently receiving capital outlay funding pursuant to s. 1013.62, F.S. Rule 6A-2.0020(1), F.A.C.

<sup>52</sup> The definition of financial emergency is provided in s. 218.503(1), F.S.

<sup>53</sup> Section 1013.62(1)(a), F.S. A conversion charter school, i.e., a charter school created by the conversion of an existing public school to charter status, is not eligible for capital outlay funding if it operates in facilities provided by its sponsor at no charge or for a nominal fee or if it is directly or indirectly operated by the school district. Section 1013.62(1)(d), F.S.

## **Blended Learning**

### **Present Situation**

Florida law authorizes brick-and-mortar charter schools to offer blended learning courses. Blended learning courses are provided at the charter school's physical location and consist of both traditional classroom and online instruction. Blended learning courses may be provided by part-time or full-time employees of the charter school or by contracted instructional providers. Instructors must be certified in the subject area of the course. The online portion of a blended learning course may be provided from a remote location.<sup>54</sup> Students in a blended learning course must be full-time students at the charter school and receive the online instruction in a classroom setting at the charter school.

### **Effect of Proposed Changes**

The bill removes the requirement that students receive online instruction in a classroom setting in order to be eligible for a blended learning course.

## **College-Preparatory Boarding Academy**

In 2011, the Legislature created the College-Preparatory Boarding Academy Pilot Program for the purpose of providing unique educational opportunities to dependent or at-risk children who are academic underperformers but who have the potential to progress from at-risk to college-bound.<sup>55</sup>

An "eligible student" is a student who:

- is a resident of the state and entitled to attend school in a participating school district;
- is at risk of academic failure;
- is currently enrolled in grade 5 or 6;
- is from a family whose gross income is at or below 200 percent of the federal poverty guidelines;
- is eligible for benefits or services funded by Temporary Assistance for Needy Families (TANF) or Title IV-E of the Social Security Act; and
- meets at least one of the following additional risk factors:
  - The child is in foster care or has been declared an adjudicated dependent by a court
  - The student's head of household is not the student's custodial parent
  - The student resides in a household that receives a housing voucher or has been determined eligible for public housing assistance
  - A member of the student's immediate family has been incarcerated
  - The child is covered under the terms of the state's Child Welfare Waiver Demonstration project with the United States Department of Health and Human Services.<sup>56</sup>

### **Effect of Proposed Changes**

The requirement that a student be currently enrolled in grade 5 or 6 limits the operator from enrolling students in another grade level, even if a space is available. The bill revises this requirement and allows any student currently enrolled in grades 5-12 to be eligible to enter the program, if the operator determines that a seat is available.

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<sup>54</sup> Section 1002.33(7)(a)2.b., F.S.

<sup>55</sup> Section 1002.3305(1), F.S.

<sup>56</sup> Section 1002.3305(2)(b), F.S.

## Other Provisions

The bill also:

- clarifies that charter schools and their governing boards are subject to the same waiver of sovereign immunity in tort actions as the state, state agencies and or subdivisions;
- deletes language regarding federal funds that conflicts with federal requirements for the distribution of such funds;
- removes the requirement that an eligible dual enrollment program be located and chartered in Florida and revises eligibility requirements for postsecondary institutions to participate in dual enrollment by requiring that the institution be accredited by any regional or national accrediting agency recognized by the U.S. DOE rather than only the Commission of Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools;
- requires school boards to share the discretionary millage with charter-schools-in-a-municipality that are owned and directly operated by a municipality and provides a calculation methodology for distribution of such funds to charter schools;
- requires sponsors to notify a charter school if they intend to not renew a contract and provide the charter school with a hearing.

### B. SECTION DIRECTORY:

**Section 1.** Amends s. 1002.33, F.S., relating to charter schools.

**Section 2.** Amends s. 1002.3305, F.S., relating to the College-Preparatory Boarding Academy Pilot Program.

**Section 3.** Amends s. 1002.331, F.S., relating to high-performing charter schools.

**Section 4.** Amends s. 1002.332, F.S., relating to high-performing charter school systems.

**Section 5.** Amends s. 1008.34, F.S., relating to school grading system, school report cards and district grades.

**Section 6.** Amends s. 1008.341, F.S., relating to the designation of school improvement ratings.

**Section 7.** Amends s. 1011.62, F.S., relating to the basic operating funding calculation.

**Section 8.** Amends s. 1011.71, F.S., relating to district school tax.

**Section 9.** Amends s. 1013.62, F.S., relating to charter school capital outlay funding.

**Section 10.** Provides an effective date of July 1, 2017.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

The bill authorizes a nonprofit organization or municipality that operates a charter school to use unrestricted surplus or unrestricted net assets of the charter school identified in an annual financial audit for K-12 educational purposes for charter schools operated by the not-for-profit or municipal entity organizing or operating the charter school with the surplus. Surplus operating funds shall be used in accordance with s. 1011.62, and surplus capital outlay funds shall be used in accordance with s. 1013.62(2).

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not Applicable.



1                                   A bill to be entitled  
 2           An act relating to charter schools; amending s.  
 3           1002.33, F.S.; revising the charter school application  
 4           process; requiring sponsors to use the standard  
 5           contract; revising blended learning eligibility;  
 6           clarifying tort liability for employees of charter  
 7           schools; revising the purpose of charter school  
 8           cooperatives; specifying the authorized uses of  
 9           charter school unrestricted net assets; revising the  
 10          public information disclosures of charter schools;  
 11          specifying requirements for entities to share  
 12          facilities with charter schools; revising the  
 13          administrative fees that a district may withhold from  
 14          charter schools; requiring charter schools to complete  
 15          and submit an annual survey; deleting an annual  
 16          charter school report; revising eligibility for local  
 17          education agency status; amending 1002.3305, F.A.;  
 18          amending eligibility criteria; amending s. 1002.331,  
 19          F.S.; conforming a cross-reference; removing the cap  
 20          on the number of replications; amending s. 1002.332,  
 21          F.S.; revising the application process for a high-  
 22          performing charter school system; amending s. 1008.34,  
 23          F.S.; specifying student performance data to be  
 24          included in school grades; amending s. 1008.341, F.S.;  
 25          including concordant scores in the calculation of a

26 school improvement rating; amending s. 1011.62., F.S.;  
 27 revising eligibility criteria for postsecondary  
 28 institutions to participate in dual enrollment;  
 29 amending s. 1011.71, F.S.; requiring districts to  
 30 share discretionary millage with charter-schools-in-a  
 31 municipality and providing a distribution methodology;  
 32 amending s. 1013.62, F.S.; revising eligibility  
 33 criteria for receiving charter school capital outlay;  
 34 providing an effective date.

35  
 36 Be It Enacted by the Legislature of the State of Florida:

37  
 38 Section 1. Subsection (1), paragraphs (a), (b), (c) and  
 39 (h) of subsection (6), paragraph (a) of subsection (7),  
 40 paragraph (b) of subsection (8), paragraph (h) of subsection  
 41 (12), subsection (13), paragraphs (b) and (c) of subsection  
 42 (17), paragraph (a) of subsection (20), paragraphs (a) and (b)  
 43 of subsection (21), subsection (25) and subsection (28) of  
 44 section 1002.33, Florida Statutes, is amended to read:

45 1002.33 Charter schools.—

46 (1) AUTHORIZATION.—~~Charter schools shall be part of the~~  
 47 ~~state's program of public education.~~ All charter schools in  
 48 Florida are public schools and shall be part of the state's  
 49 program of public education. A charter school may be formed by  
 50 creating a new school or converting an existing public school to

51 charter status. A charter school may operate a virtual charter  
 52 school pursuant to s. 1002.45(1)(d) to provide full-time online  
 53 instruction to eligible students, pursuant to s. 1002.455, in  
 54 kindergarten through grade 12. An existing charter school that  
 55 is seeking to become a virtual charter school must amend its  
 56 charter or submit a new application pursuant to subsection (6)  
 57 to become a virtual charter school. A virtual charter school is  
 58 subject to the requirements of this section; however, a virtual  
 59 charter school is exempt from subsections (18) and (19),  
 60 subparagraphs (20)(a)2., 4., 5., and 7., paragraph (20)(c), and  
 61 s. 1003.03. A public school may not use the term charter in its  
 62 name unless it has been approved under this section.

63 (6) APPLICATION PROCESS AND REVIEW.—Charter school  
 64 applications are subject to the following requirements:

65 (a) A person or entity seeking to open a charter school  
 66 shall prepare and submit an application on the standard ~~a model~~  
 67 application form prepared by the Department of Education which:

68 1. Demonstrates how the school will use the guiding  
 69 principles and meet the statutorily defined purpose of a charter  
 70 school.

71 2. Provides a detailed curriculum plan that illustrates  
 72 how students will be provided services to attain the Sunshine  
 73 State Standards.

74 3. Contains goals and objectives for improving student  
 75 learning and measuring that improvement. These goals and

76 objectives must indicate how much academic improvement students  
 77 are expected to show each year, how success will be evaluated,  
 78 and the specific results to be attained through instruction.

79 4. Describes the reading curriculum and differentiated  
 80 strategies that will be used for students reading at grade level  
 81 or higher and a separate curriculum and strategies for students  
 82 who are reading below grade level. A sponsor shall deny an  
 83 application if the school does not propose a reading curriculum  
 84 that is consistent with effective teaching strategies that are  
 85 grounded in scientifically based reading research.

86 5. Contains an annual financial plan for each year  
 87 requested by the charter for operation of the school for up to 5  
 88 years. This plan must contain anticipated fund balances based on  
 89 revenue projections, a spending plan based on projected revenues  
 90 and expenses, and a description of controls that will safeguard  
 91 finances and projected enrollment trends.

92 6. Discloses the name of each applicant, governing board  
 93 member, and all proposed education services providers; the name  
 94 and sponsor of any charter school operated by each applicant,  
 95 each governing board member, and each proposed education  
 96 services provider that has closed and the reasons for the  
 97 closure; and the academic and financial history of such charter  
 98 schools, which the sponsor shall consider in deciding whether to  
 99 approve or deny the application.

100 7. Contains additional information a sponsor may require,

101 which shall be attached as an addendum to the charter school  
 102 application described in this paragraph.

103 8. For the establishment of a virtual charter school,  
 104 documents that the applicant has contracted with a provider of  
 105 virtual instruction services pursuant to s. 1002.45(1)(d).

106 (b) A sponsor shall receive and review all applications  
 107 for a charter school using the evaluation instrument developed  
 108 by the Department of Education. A sponsor shall receive and  
 109 consider charter school applications received on or before  
 110 February 1 ~~August 1~~ of each calendar year for charter schools to  
 111 be opened eighteen months later at the beginning of the school  
 112 district's ~~next~~ school year, or to be opened at a time agreed to  
 113 by the applicant and the sponsor. A sponsor may not refuse to  
 114 receive a charter school application submitted before February 1  
 115 ~~August 1~~ and may receive an application submitted later than  
 116 February 1 ~~August 1~~ if it chooses. ~~In order to facilitate~~  
 117 ~~greater collaboration in the application process, an applicant~~  
 118 ~~may submit a draft charter school application on or before May 1~~  
 119 ~~with an application fee of \$500. If a draft application is~~  
 120 ~~timely submitted, the sponsor shall review and provide feedback~~  
 121 ~~as to material deficiencies in the application by July 1. The~~  
 122 ~~applicant shall then have until August 1 to resubmit a revised~~  
 123 ~~and final application. The sponsor may approve the draft~~  
 124 ~~application. Except as provided for a draft application, A~~ a  
 125 sponsor may not charge an applicant for a charter any fee for

126 the processing or consideration of an application, and a sponsor  
 127 may not base its consideration or approval of a final  
 128 application upon the promise of future payment of any kind.  
 129 Before approving or denying any ~~final~~ application, the sponsor  
 130 shall allow the applicant, upon receipt of written notification,  
 131 at least 7 calendar days to make technical or nonsubstantive  
 132 corrections and clarifications, including, but not limited to,  
 133 corrections of grammatical, typographical, and like errors or  
 134 missing signatures, if such errors are identified by the sponsor  
 135 as cause to deny the final application.

136 1. In order to facilitate an accurate budget projection  
 137 process, a sponsor shall be held harmless for FTE students who  
 138 are not included in the FTE projection due to approval of  
 139 charter school applications after the FTE projection deadline.  
 140 In a further effort to facilitate an accurate budget projection,  
 141 within 15 calendar days after receipt of a charter school  
 142 application, a sponsor shall report to the Department of  
 143 Education the name of the applicant entity, the proposed charter  
 144 school location, and its projected FTE.

145 2. In order to ensure fiscal responsibility, an  
 146 application for a charter school shall include a full accounting  
 147 of expected assets, a projection of expected sources and amounts  
 148 of income, including income derived from projected student  
 149 enrollments and from community support, and an expense  
 150 projection that includes full accounting of the costs of

151 operation, including start-up costs.

152 3.a. A sponsor shall by a majority vote approve or deny an  
 153 application no later than 90 ~~60~~ calendar days after the  
 154 application is received, unless the sponsor and the applicant  
 155 mutually agree in writing to temporarily postpone the vote to a  
 156 specific date, at which time the sponsor shall by a majority  
 157 vote approve or deny the application. If the sponsor fails to  
 158 act on the application, an applicant may appeal to the State  
 159 Board of Education as provided in paragraph (c). If an  
 160 application is denied, the sponsor shall, within 10 calendar  
 161 days after such denial, articulate in writing the specific  
 162 reasons, based upon good cause, supporting its denial of the  
 163 application and shall provide the letter of denial and  
 164 supporting documentation to the applicant and to the Department  
 165 of Education.

166 b. An application submitted by a high-performing charter  
 167 school identified pursuant to s. 1002.331 or a high-performing  
 168 charter school system identified pursuant to s. 1002.332 may be  
 169 denied by the sponsor only if the sponsor demonstrates by clear  
 170 and convincing evidence that:

171 (I) The application does not materially comply with the  
 172 requirements in paragraph (a);

173 (II) The charter school proposed in the application does  
 174 not materially comply with the requirements in paragraphs

175 (9) (a) - (f);

176 (III) The proposed charter school's educational program  
 177 does not substantially replicate that of the applicant or one of  
 178 the applicant's high-performing charter schools;

179 (IV) The applicant has made a material misrepresentation  
 180 or false statement or concealed an essential or material fact  
 181 during the application process; or

182 (V) The proposed charter school's educational program and  
 183 financial management practices do not materially comply with the  
 184 requirements of this section.

185  
 186 Material noncompliance is a failure to follow requirements or a  
 187 violation of prohibitions applicable to charter school  
 188 applications, which failure is quantitatively or qualitatively  
 189 significant either individually or when aggregated with other  
 190 noncompliance. An applicant is considered to be replicating a  
 191 high-performing charter school if the proposed school is  
 192 substantially similar to at least one of the applicant's high-  
 193 performing charter schools and the organization or individuals  
 194 involved in the establishment and operation of the proposed  
 195 school are significantly involved in the operation of replicated  
 196 schools.

197 c. If the sponsor denies an application submitted by a  
 198 high-performing charter school or a high-performing charter  
 199 school system, the sponsor must, within 10 calendar days after  
 200 such denial, state in writing the specific reasons, based upon



PCB PKI 17-01

ORIGINAL

2017

201 the criteria in sub-subparagraph b., supporting its denial of  
202 the application and must provide the letter of denial and  
203 supporting documentation to the applicant and to the Department  
204 of Education. The applicant may appeal the sponsor's denial of  
205 the application in accordance with ~~directly to the State Board~~  
206 ~~of Education and, if an appeal is filed, must provide a copy of~~  
207 ~~the appeal to the sponsor pursuant to~~ paragraph (c).

208 4. For budget projection purposes, the sponsor shall  
209 report to the Department of Education the approval or denial of  
210 an application within 10 calendar days after such approval or  
211 denial. In the event of approval, the report to the Department  
212 of Education shall include the final projected FTE for the  
213 approved charter school.

214 5. Upon approval of an application, the initial startup  
215 shall commence with the beginning of the public school calendar  
216 for the district in which the charter is granted. A charter  
217 school may defer the opening of the school's operations for up  
218 to 2 years to provide time for adequate facility planning. The  
219 charter school must provide written notice of such intent to the  
220 sponsor and the parents of enrolled students at least 30  
221 calendar days before the first day of school.

222 (c)1. An applicant may appeal any denial of that  
223 applicant's application or failure to act on an application to  
224 the State Board of Education no later than 30 calendar days  
225 after receipt of the sponsor's decision or failure to act and

226 shall notify the sponsor of its appeal. Any response of the  
 227 sponsor shall be submitted to the State Board of Education  
 228 within 30 calendar days after notification of the appeal. Upon  
 229 receipt of notification from the State Board of Education that a  
 230 charter school applicant is filing an appeal, the Commissioner  
 231 of Education shall convene a meeting of the Charter School  
 232 Appeal Commission to study and make recommendations to the State  
 233 Board of Education regarding its pending decision about the  
 234 appeal. The commission shall forward its recommendation to the  
 235 state board at least 7 calendar days before the date on which  
 236 the appeal is to be heard. ~~An appeal regarding the denial of an~~  
 237 ~~application submitted by a high performing charter school~~  
 238 ~~pursuant to s. 1002.331 shall be conducted by the State Board of~~  
 239 ~~Education in accordance with this paragraph, except that the~~  
 240 ~~commission shall not convene to make recommendations regarding~~  
 241 ~~the appeal. However, the Commissioner of Education shall review~~  
 242 ~~the appeal and make a recommendation to the state board.~~

243 2. The Charter School Appeal Commission ~~or, in the case of~~  
 244 ~~an appeal regarding an application submitted by a high-~~  
 245 ~~performing charter school, the State Board of Education may~~  
 246 reject an appeal submission for failure to comply with  
 247 procedural rules governing the appeals process. The rejection  
 248 shall describe the submission errors. The appellant shall have  
 249 15 calendar days after notice of rejection in which to resubmit  
 250 an appeal that meets the requirements set forth in State Board

251 of Education rule. An appeal submitted subsequent to such  
 252 rejection is considered timely if the original appeal was filed  
 253 within 30 calendar days after receipt of notice of the specific  
 254 reasons for the sponsor's denial of the charter application.

255 3.a. The State Board of Education shall by majority vote  
 256 accept or reject the decision of the sponsor no later than 90  
 257 calendar days after an appeal is filed in accordance with State  
 258 Board of Education rule. The State Board of Education shall  
 259 remand the application to the sponsor with its written decision  
 260 that the sponsor approve or deny the application. The sponsor  
 261 shall implement the decision of the State Board of Education.  
 262 The decision of the State Board of Education is not subject to  
 263 the provisions of the Administrative Procedure Act, chapter 120.

264 b. If an appeal concerns an application submitted by a  
 265 high-performing charter school identified pursuant to s.  
 266 1002.331, or a high-performing charter school system identified  
 267 pursuant to s. 1002.332, the State Board of Education shall  
 268 determine whether the sponsor's denial was in accordance with  
 269 sub-subsection (6) (b) 3.b. has shown, by clear and convincing  
 270 evidence, that:

271 ~~— (I) The application does not materially comply with the~~  
 272 ~~requirements in paragraph (a);~~

273 ~~— (II) The charter school proposed in the application does~~  
 274 ~~not materially comply with the requirements in paragraphs~~  
 275 ~~(9) (a) (f);~~

276 ~~—— (III) The proposed charter school's educational program~~  
 277 ~~does not substantially replicate that of the applicant or one of~~  
 278 ~~the applicant's high-performing charter schools;~~

279 ~~—— (IV) The applicant has made a material misrepresentation~~  
 280 ~~or false statement or concealed an essential or material fact~~  
 281 ~~during the application process; or~~

282 ~~—— (V) The proposed charter school's educational program and~~  
 283 ~~financial management practices do not materially comply with the~~  
 284 ~~requirements of this section.~~

285  
 286 ~~The State Board of Education shall approve or reject the~~  
 287 ~~sponsor's denial of an application no later than 90 calendar~~  
 288 ~~days after an appeal is filed in accordance with State Board of~~  
 289 ~~Education rule. The State Board of Education shall remand the~~  
 290 ~~application to the sponsor with its written decision that the~~  
 291 ~~sponsor approve or deny the application. The sponsor shall~~  
 292 ~~implement the decision of the State Board of Education. The~~  
 293 ~~decision of the State Board of Education is not subject to the~~  
 294 ~~Administrative Procedure Act, chapter 120.~~

295 (d) The sponsor shall act upon the decision of the State  
 296 Board of Education within 30 calendar days after it is received.  
 297 The State Board of Education's decision is a final action  
 298 subject to judicial review in the district court of appeal.

299 (e)1. A Charter School Appeal Commission is established to  
 300 assist the commissioner and the State Board of Education with a

301 fair and impartial review of appeals by applicants whose charter  
 302 applications have been denied, whose charter contracts have not  
 303 been renewed, or whose charter contracts have been terminated by  
 304 their sponsors.

305 2. The Charter School Appeal Commission may receive copies  
 306 of the appeal documents forwarded to the State Board of  
 307 Education, review the documents, gather other applicable  
 308 information regarding the appeal, and make a written  
 309 recommendation to the commissioner. The recommendation must  
 310 state whether the appeal should be upheld or denied and include  
 311 the reasons for the recommendation being offered. The  
 312 commissioner shall forward the recommendation to the State Board  
 313 of Education no later than 7 calendar days prior to the date on  
 314 which the appeal is to be heard. The state board must consider  
 315 the commission's recommendation in making its decision, but is  
 316 not bound by the recommendation. The decision of the Charter  
 317 School Appeal Commission is not subject to the provisions of the  
 318 Administrative Procedure Act, chapter 120.

319 3. The commissioner shall appoint a number of members to  
 320 the Charter School Appeal Commission sufficient to ensure that  
 321 no potential conflict of interest exists for any commission  
 322 appeal decision. Members shall serve without compensation but  
 323 may be reimbursed for travel and per diem expenses in  
 324 conjunction with their service. Of the members hearing the  
 325 appeal, one-half must represent currently operating charter

326 schools and one-half must represent sponsors. The commissioner  
327 or a named designee shall chair the Charter School Appeal  
328 Commission.

329 4. The chair shall convene meetings of the commission and  
330 shall ensure that the written recommendations are completed and  
331 forwarded in a timely manner. In cases where the commission  
332 cannot reach a decision, the chair shall make the written  
333 recommendation with justification, noting that the decision was  
334 rendered by the chair.

335 5. Commission members shall thoroughly review the  
336 materials presented to them from the appellant and the sponsor.  
337 The commission may request information to clarify the  
338 documentation presented to it. In the course of its review, the  
339 commission may facilitate the postponement of an appeal in those  
340 cases where additional time and communication may negate the  
341 need for a formal appeal and both parties agree, in writing, to  
342 postpone the appeal to the State Board of Education. A new date  
343 certain for the appeal shall then be set based upon the rules  
344 and procedures of the State Board of Education. Commission  
345 members shall provide a written recommendation to the state  
346 board as to whether the appeal should be upheld or denied. A  
347 fact-based justification for the recommendation must be  
348 included. The chair must ensure that the written recommendation  
349 is submitted to the State Board of Education members no later  
350 than 7 calendar days prior to the date on which the appeal is to

351 be heard. Both parties in the case shall also be provided a copy  
 352 of the recommendation.

353 (f)1. The Department of Education shall provide or arrange  
 354 for training and technical assistance to charter schools in  
 355 developing and adjusting business plans and accounting for costs  
 356 and income. Training and technical assistance shall also  
 357 address, at a minimum, state and federal grant and student  
 358 performance accountability reporting requirements and provide  
 359 assistance in identifying and applying for the types and amounts  
 360 of state and federal financial assistance the charter school may  
 361 be eligible to receive. The department may provide other  
 362 technical assistance to an applicant upon written request.

363 2. A charter school applicant must participate in the  
 364 training provided by the Department of Education after approval  
 365 of an application but at least 30 calendar days before the first  
 366 day of classes at the charter school. However, a sponsor may  
 367 require the charter school applicant to attend training provided  
 368 by the sponsor in lieu of the department's training if the  
 369 sponsor's training standards meet or exceed the standards  
 370 developed by the department. In such case, the sponsor may not  
 371 require the charter school applicant to attend the training  
 372 within 30 calendar days before the first day of classes at the  
 373 charter school. The training must include instruction in  
 374 accurate financial planning and good business practices. If the  
 375 applicant is a management company or a nonprofit organization,

376 the charter school principal and the chief financial officer or  
 377 his or her equivalent must also participate in the training. A  
 378 sponsor may not require a high-performing charter school or  
 379 high-performing charter school system applicant to participate  
 380 in the training described in this subparagraph more than once.

381 (g) In considering charter applications for a lab school,  
 382 a state university shall consult with the district school board  
 383 of the county in which the lab school is located. The decision  
 384 of a state university may be appealed pursuant to the procedure  
 385 established in this subsection.

386 ~~(h) The terms and conditions for the operation of a~~  
 387 ~~charter school shall be set forth by the sponsor and the~~  
 388 ~~applicant in a written contractual agreement, called a charter.~~  
 389 ~~The sponsor may not impose unreasonable rules or regulations~~  
 390 ~~that violate the intent of giving charter schools greater~~  
 391 ~~flexibility to meet educational goals. The sponsor has 30 days~~  
 392 ~~after approval of the application to provide an initial proposed~~  
 393 ~~charter contract to the charter school. The applicant and the~~  
 394 ~~sponsor have 40 days thereafter to negotiate and notice the~~  
 395 ~~charter contract for final approval by the sponsor unless both~~  
 396 ~~parties agree to an extension. The proposed charter contract~~  
 397 ~~shall be provided to the charter school at least 7 calendar days~~  
 398 ~~prior to the date of the meeting at which the charter is~~  
 399 ~~scheduled to be voted upon by the sponsor. The Department of~~  
 400 ~~Education shall provide mediation services for any dispute~~



PCB PKI 17-01

ORIGINAL

2017

401 ~~regarding this section subsequent to the approval of a charter~~  
402 ~~application and for any dispute relating to the approved~~  
403 ~~charter, except disputes regarding charter school application~~  
404 ~~denials. If the Commissioner of Education determines that the~~  
405 ~~dispute cannot be settled through mediation, the dispute may be~~  
406 ~~appealed to an administrative law judge appointed by the~~  
407 ~~Division of Administrative Hearings. The administrative law~~  
408 ~~judge has final order authority to rule on issues of equitable~~  
409 ~~treatment of the charter school as a public school, whether~~  
410 ~~proposed provisions of the charter violate the intended~~  
411 ~~flexibility granted charter schools by statute, or on any other~~  
412 ~~matter regarding this section except a charter school~~  
413 ~~application denial, a charter termination, or a charter~~  
414 ~~nonrenewal and shall award the prevailing party reasonable~~  
415 ~~attorney's fees and costs incurred to be paid by the losing~~  
416 ~~party. The costs of the administrative hearing shall be paid by~~  
417 ~~the party whom the administrative law judge rules against.~~

418       (7) CHARTER.- The terms and conditions for the operation  
419 of a charter school shall be set forth by the sponsor and the  
420 applicant in a written contractual agreement, called a charter.  
421 The sponsor and the governing board of the charter school shall  
422 use the standard charter contract pursuant to subsection (21),  
423 which shall incorporate the approved application and any addenda  
424 approved with the application. The standard contract may not be  
425 altered in any way. Any term or condition of a proposed charter

PCB PKI 17-01

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

426 contract that differs from the standard charter contract adopted  
 427 by rule of the department shall be presumed a limitation on  
 428 charter school flexibility. The sponsor may not impose  
 429 unreasonable rules or regulations that violate the intent of  
 430 giving charter schools greater flexibility to meet educational  
 431 goals. ~~The major issues involving the operation of a charter~~  
 432 ~~school shall be considered in advance and written into the~~  
 433 ~~charter.~~ The charter shall be signed by the governing board of  
 434 the charter school and the sponsor, following a public hearing  
 435 to ensure community input.

436 (a) The charter shall address and criteria for approval of  
 437 the charter shall be based on:

438 1. The school's mission, the students to be served, and  
 439 the ages and grades to be included.

440 2. The focus of the curriculum, the instructional methods  
 441 to be used, any distinctive instructional techniques to be  
 442 employed, and identification and acquisition of appropriate  
 443 technologies needed to improve educational and administrative  
 444 performance which include a means for promoting safe, ethical,  
 445 and appropriate uses of technology which comply with legal and  
 446 professional standards.

447 a. The charter shall ensure that reading is a primary  
 448 focus of the curriculum and that resources are provided to  
 449 identify and provide specialized instruction for students who  
 450 are reading below grade level. The curriculum and instructional

451 strategies for reading must be consistent with the Next  
 452 Generation Sunshine State Standards and grounded in  
 453 scientifically based reading research.

454 b. In order to provide students with access to diverse  
 455 instructional delivery models, to facilitate the integration of  
 456 technology within traditional classroom instruction, and to  
 457 provide students with the skills they need to compete in the  
 458 21st century economy, the Legislature encourages instructional  
 459 methods for blended learning courses consisting of both  
 460 traditional classroom and online instructional techniques.  
 461 Charter schools may implement blended learning courses which  
 462 combine traditional classroom instruction and virtual  
 463 instruction. Students in a blended learning course must be full-  
 464 time students of the charter school pursuant to s.  
 465 1011.61(1)(a) ~~and receive the online instruction in a classroom~~  
 466 ~~setting at the charter school.~~ Instructional personnel certified  
 467 pursuant to s. 1012.55 who provide virtual instruction for  
 468 blended learning courses may be employees of the charter school  
 469 or may be under contract to provide instructional services to  
 470 charter school students. At a minimum, such instructional  
 471 personnel must hold an active state or school district adjunct  
 472 certification under s. 1012.57 for the subject area of the  
 473 blended learning course. The funding and performance  
 474 accountability requirements for blended learning courses are the  
 475 same as those for traditional courses.

476 3. The current incoming baseline standard of student  
 477 academic achievement, the outcomes to be achieved, and the  
 478 method of measurement that will be used. The criteria listed in  
 479 this subparagraph shall include a detailed description of:

480 a. How the baseline student academic achievement levels  
 481 and prior rates of academic progress will be established.

482 b. How these baseline rates will be compared to rates of  
 483 academic progress achieved by these same students while  
 484 attending the charter school.

485 c. To the extent possible, how these rates of progress  
 486 will be evaluated and compared with rates of progress of other  
 487 closely comparable student populations.

488  
 489 The district school board is required to provide academic  
 490 student performance data to charter schools for each of their  
 491 students coming from the district school system, as well as  
 492 rates of academic progress of comparable student populations in  
 493 the district school system.

494 4. The methods used to identify the educational strengths  
 495 and needs of students and how well educational goals and  
 496 performance standards are met by students attending the charter  
 497 school. The methods shall provide a means for the charter school  
 498 to ensure accountability to its constituents by analyzing  
 499 student performance data and by evaluating the effectiveness and  
 500 efficiency of its major educational programs. Students in

501 charter schools shall, at a minimum, participate in the  
 502 statewide assessment program created under s. 1008.22.

503 5. In secondary charter schools, a method for determining  
 504 that a student has satisfied the requirements for graduation in  
 505 s. 1002.3105(5), s. 1003.4281, or s. 1003.4282.

506 6. A method for resolving conflicts between the governing  
 507 board of the charter school and the sponsor.

508 7. The admissions procedures and dismissal procedures,  
 509 including the school's code of student conduct. Admission or  
 510 dismissal must not be based on a student's academic performance.

511 8. The ways by which the school will achieve a  
 512 racial/ethnic balance reflective of the community it serves or  
 513 within the racial/ethnic range of other public schools in the  
 514 same school district.

515 9. The financial and administrative management of the  
 516 school, including a reasonable demonstration of the professional  
 517 experience or competence of those individuals or organizations  
 518 applying to operate the charter school or those hired or  
 519 retained to perform such professional services and the  
 520 description of clearly delineated responsibilities and the  
 521 policies and practices needed to effectively manage the charter  
 522 school. A description of internal audit procedures and  
 523 establishment of controls to ensure that financial resources are  
 524 properly managed must be included. Both public sector and  
 525 private sector professional experience shall be equally valid in

526 such a consideration.

527 10. The asset and liability projections required in the  
 528 application which are incorporated into the charter and shall be  
 529 compared with information provided in the annual report of the  
 530 charter school.

531 11. A description of procedures that identify various  
 532 risks and provide for a comprehensive approach to reduce the  
 533 impact of losses; plans to ensure the safety and security of  
 534 students and staff; plans to identify, minimize, and protect  
 535 others from violent or disruptive student behavior; and the  
 536 manner in which the school will be insured, including whether or  
 537 not the school will be required to have liability insurance,  
 538 and, if so, the terms and conditions thereof and the amounts of  
 539 coverage.

540 12. The term of the charter which shall provide for  
 541 cancellation of the charter if insufficient progress has been  
 542 made in attaining the student achievement objectives of the  
 543 charter and if it is not likely that such objectives can be  
 544 achieved before expiration of the charter. The initial term of a  
 545 charter shall be for 4 or 5 years. In order to facilitate access  
 546 to long-term financial resources for charter school  
 547 construction, charter schools that are operated by a  
 548 municipality or other public entity as provided by law are  
 549 eligible for up to a 15-year charter, subject to approval by the  
 550 district school board. A charter lab school is eligible for a

551 charter for a term of up to 15 years. In addition, to facilitate  
 552 access to long-term financial resources for charter school  
 553 construction, charter schools that are operated by a private,  
 554 not-for-profit, s. 501(c)(3) status corporation are eligible for  
 555 up to a 15-year charter, subject to approval by the district  
 556 school board. Such long-term charters remain subject to annual  
 557 review and may be terminated during the term of the charter, but  
 558 only according to the provisions set forth in subsection (8).

559 13. The facilities to be used and their location. The  
 560 sponsor may not require a charter school to have a certificate  
 561 of occupancy or a temporary certificate of occupancy for such a  
 562 facility earlier than 15 calendar days before the first day of  
 563 school.

564 14. The qualifications to be required of the teachers and  
 565 the potential strategies used to recruit, hire, train, and  
 566 retain qualified staff to achieve best value.

567 15. The governance structure of the school, including the  
 568 status of the charter school as a public or private employer as  
 569 required in paragraph (12)(i).

570 16. A timetable for implementing the charter which  
 571 addresses the implementation of each element thereof and the  
 572 date by which the charter shall be awarded in order to meet this  
 573 timetable.

574 17. In the case of an existing public school that is being  
 575 converted to charter status, alternative arrangements for

576 current students who choose not to attend the charter school and  
 577 for current teachers who choose not to teach in the charter  
 578 school after conversion in accordance with the existing  
 579 collective bargaining agreement or district school board rule in  
 580 the absence of a collective bargaining agreement. However,  
 581 alternative arrangements shall not be required for current  
 582 teachers who choose not to teach in a charter lab school, except  
 583 as authorized by the employment policies of the state university  
 584 which grants the charter to the lab school.

585 18. Full disclosure of the identity of all relatives  
 586 employed by the charter school who are related to the charter  
 587 school owner, president, chairperson of the governing board of  
 588 directors, superintendent, governing board member, principal,  
 589 assistant principal, or any other person employed by the charter  
 590 school who has equivalent decisionmaking authority. For the  
 591 purpose of this subparagraph, the term "relative" means father,  
 592 mother, son, daughter, brother, sister, uncle, aunt, first  
 593 cousin, nephew, niece, husband, wife, father-in-law, mother-in-  
 594 law, son-in-law, daughter-in-law, brother-in-law, sister-in-law,  
 595 stepfather, stepmother, stepson, stepdaughter, stepbrother,  
 596 stepsister, half brother, or half sister.

597 19. Implementation of the activities authorized under s.  
 598 1002.331 by the charter school when it satisfies the eligibility  
 599 requirements for a high-performing charter school. A high-  
 600 performing charter school shall notify its sponsor in writing by



601 March 1 if it intends to increase enrollment or expand grade  
602 levels the following school year. The written notice shall  
603 specify the amount of the enrollment increase and the grade  
604 levels that will be added, as applicable.

605 (b) The sponsor has 30 days after approval of the  
606 application to provide an initial proposed charter contract to  
607 the charter school. The applicant and the sponsor have 40 days  
608 thereafter to negotiate and notice the charter contract for  
609 final approval by the sponsor unless both parties agree to an  
610 extension. The proposed charter contract shall be provided to  
611 the charter school at least 7 calendar days prior to the date of  
612 the meeting at which the charter is scheduled to be voted upon  
613 by the sponsor. The Department of Education shall provide  
614 mediation services for any dispute regarding this section  
615 subsequent to the approval of a charter application and for any  
616 dispute relating to the approved charter, except disputes  
617 regarding charter school application denials. If the  
618 Commissioner of Education determines that the dispute cannot be  
619 settled through mediation, the dispute may be appealed to an  
620 administrative law judge appointed by the Division of  
621 Administrative Hearings. The administrative law judge has final  
622 order authority to rule on issues of equitable treatment of the  
623 charter school as a public school, whether proposed provisions  
624 of the charter violate the intended flexibility granted charter  
625 schools by statute, or on any other matter regarding this

626 section except a charter school application denial, a charter  
 627 termination, or a charter nonrenewal. The administrative law  
 628 judge shall award the prevailing party reasonable attorney's  
 629 fees and costs incurred during the mediation process,  
 630 administrative proceeding, and any appeals, to be paid by the  
 631 party whom the administrative law judge rules against.

632 (c)~~(b)~~1. A charter may be renewed provided that a program  
 633 review demonstrates that the criteria in paragraph (a) have been  
 634 successfully accomplished and that none of the grounds for  
 635 nonrenewal established by paragraph (8)(a) has been documented.  
 636 In order to facilitate long-term financing for charter school  
 637 construction, charter schools operating for a minimum of 3 years  
 638 and demonstrating exemplary academic programming and fiscal  
 639 management are eligible for a 15-year charter renewal. Such  
 640 long-term charter is subject to annual review and may be  
 641 terminated during the term of the charter.

642 2. The 15-year charter renewal that may be granted  
 643 pursuant to subparagraph 1. shall be granted to a charter school  
 644 that has received a school grade of "A" or "B" pursuant to s.  
 645 1008.34 in 3 of the past 4 years and is not in a state of  
 646 financial emergency or deficit position as defined by this  
 647 section. Such long-term charter is subject to annual review and  
 648 may be terminated during the term of the charter pursuant to  
 649 subsection (8).

650 (d)~~(e)~~ A charter may be modified during its initial term

651 or any renewal term upon the recommendation of the sponsor or  
 652 the charter school's governing board and the approval of both  
 653 parties to the agreement. Modification may include, but is not  
 654 limited to, consolidation of multiple charters into a single  
 655 charter if the charters are operated under the same governing  
 656 board and physically located on the same campus, regardless of  
 657 the renewal cycle.

658 ~~(e)-(d)~~ A charter may be terminated by a charter school's  
 659 governing board through voluntary closure. The decision to cease  
 660 operations must be determined at a public meeting. The governing  
 661 board shall notify the parents and sponsor of the public meeting  
 662 in writing before the public meeting. The governing board must  
 663 notify the sponsor, parents of enrolled students, and the  
 664 department in writing within 24 hours after the public meeting  
 665 of its determination. The notice shall state the charter  
 666 school's intent to continue operations or the reason for the  
 667 closure and acknowledge that the governing board agrees to  
 668 follow the procedures for dissolution and reversion of public  
 669 funds pursuant to paragraphs (8)(e)-(g) and (9)(o).

670 (8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—

671 (b) At least 90 days prior to renewing, non-renewing or  
 672 terminating a charter, the sponsor shall notify the governing  
 673 board of the school of the proposed action in writing. The  
 674 notice shall state in reasonable detail the grounds for the  
 675 proposed action and stipulate that the school's governing board

676 may, within 14 calendar days after receiving the notice, request  
 677 a hearing. The hearing shall be conducted at the sponsor's  
 678 election in accordance with one of the following procedures:

679 1. A direct hearing conducted by the sponsor within 60  
 680 days after receipt of the request for a hearing. The hearing  
 681 shall be conducted in accordance with ss. 120.569 and 120.57.  
 682 The sponsor shall decide upon nonrenewal or termination by a  
 683 majority vote. The sponsor's decision shall be a final order; or

684 2. A hearing conducted by an administrative law judge  
 685 assigned by the Division of Administrative Hearings. The hearing  
 686 shall be conducted within 60 days after receipt of the request  
 687 for a hearing and in accordance with chapter 120. The  
 688 administrative law judge's recommended order shall be submitted  
 689 to the sponsor. A majority vote by the sponsor shall be required  
 690 to adopt or modify the administrative law judge's recommended  
 691 order. The sponsor shall issue a final order.

692 (12) EMPLOYEES OF CHARTER SCHOOLS.—

693 (h) For the purposes of tort liability, the charter  
 694 school, including its governing body and employees of a charter  
 695 school, shall be governed by s. 768.28.

696 (13) CHARTER SCHOOL COOPERATIVES.—Charter schools may

697 enter into cooperative agreements to form charter school  
 698 cooperative organizations that may provide ~~the following~~  
 699 services to further educational, operational, and administrative  
 700 initiatives in which the participating charter schools share

701 ~~common interests; charter school planning and development,~~  
702 ~~direct instructional services, and contracts with charter school~~  
703 ~~governing boards to provide personnel administrative services,~~  
704 ~~payroll services, human resource management, evaluation and~~  
705 ~~assessment services, teacher preparation, and professional~~  
706 ~~development.~~

707 (17) FUNDING.—Students enrolled in a charter school,  
708 regardless of the sponsorship, shall be funded as if they are in  
709 a basic program or a special program, the same as students  
710 enrolled in other public schools in the school district. Funding  
711 for a charter lab school shall be as provided in s. 1002.32.

712 (b) The basis for the agreement for funding students  
713 enrolled in a charter school shall be the sum of the school  
714 district's operating funds from the Florida Education Finance  
715 Program as provided in s. 1011.62 and the General Appropriations  
716 Act, including gross state and local funds, discretionary  
717 lottery funds, and funds from the school district's current  
718 operating discretionary millage levy; divided by total funded  
719 weighted full-time equivalent students in the school district;  
720 multiplied by the weighted full-time equivalent students for the  
721 charter school. Charter schools whose students or programs meet  
722 the eligibility criteria in law are entitled to their  
723 proportionate share of categorical program funds included in the  
724 total funds available in the Florida Education Finance Program  
725 by the Legislature, including transportation, the research-based

PCB PKI 17-01

ORIGINAL

2017

726 reading allocation, and the Florida digital classrooms  
727 allocation. Total funding for each charter school shall be  
728 recalculated during the year to reflect the revised calculations  
729 under the Florida Education Finance Program by the state and the  
730 actual weighted full-time equivalent students reported by the  
731 charter school during the full-time equivalent student survey  
732 periods designated by the Commissioner of Education. Any  
733 unrestricted surplus or unrestricted net assets identified in  
734 the charter school's annual audit may be used for K-12  
735 educational purposes for other charter schools in the state  
736 operated by the not-for-profit or municipal entity operating the  
737 charter school with the surplus. Surplus operating funds shall  
738 be used in accordance with s. 1011.62, and surplus capital  
739 outlay funds shall be used in accordance with s. 1013.62(2).

740 (c) ~~If the district school board is providing programs or~~  
741 ~~services to students funded by federal funds, any eligible~~  
742 ~~students enrolled in charter schools in the school district~~  
743 ~~shall be provided federal funds for the same level of service~~  
744 ~~provided students in the schools operated by the district school~~  
745 ~~board.~~ Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all  
746 charter schools shall receive all federal funding for which the  
747 school is otherwise eligible, including Title I funding, not  
748 later than 5 months after the charter school first opens and  
749 within 5 months after any subsequent expansion of enrollment.  
750 Unless otherwise mutually agreed to by the charter school and

PCB PKI 17-01

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751 its sponsor, and consistent with state and federal rules and  
 752 regulations governing the use and disbursement of federal funds,  
 753 the sponsor shall reimburse the charter school on a monthly  
 754 basis for all invoices submitted by the charter school for  
 755 federal funds available to the sponsor for the benefit of the  
 756 charter school, the charter school's students, and the charter  
 757 school's students as public school students in the school  
 758 district. Such federal funds include, but are not limited to,  
 759 Title I, Title II, and Individuals with Disabilities Education  
 760 Act (IDEA) funds. To receive timely reimbursement for an  
 761 invoice, the charter school must submit the invoice to the  
 762 sponsor at least 30 days before the monthly date of  
 763 reimbursement set by the sponsor. In order to be reimbursed, any  
 764 expenditures made by the charter school must comply with all  
 765 applicable state rules and federal regulations, including, but  
 766 not limited to, the applicable federal Office of Management and  
 767 Budget Circulars; the federal Education Department General  
 768 Administrative Regulations; and program-specific statutes,  
 769 rules, and regulations. Such funds may not be made available to  
 770 the charter school until a plan is submitted to the sponsor for  
 771 approval of the use of the funds in accordance with applicable  
 772 federal requirements. The sponsor has 30 days to review and  
 773 approve any plan submitted pursuant to this paragraph.

774 (18) FACILITIES.—

775 (c) Any facility, or portion thereof, used to house a

776 charter school whose charter has been approved by the sponsor  
 777 and the governing board, pursuant to subsection (7), shall be  
 778 exempt from ad valorem taxes pursuant to s. 196.1983. Library,  
 779 community service, museum, performing arts, theatre, cinema,  
 780 church, Florida College System institution, college, and  
 781 university facilities may provide space to charter schools  
 782 within their facilities under their preexisting zoning and land  
 783 use designations without obtaining a special exception,  
 784 rezoning, land use charter, or other approval.

785 (20) SERVICES.—

786 (a)1. A sponsor shall provide certain administrative and  
 787 educational services to charter schools. These services shall  
 788 include contract management services; full-time equivalent and  
 789 data reporting services; exceptional student education  
 790 administration services; services related to eligibility and  
 791 reporting duties required to ensure that school lunch services  
 792 under the federal lunch program, consistent with the needs of  
 793 the charter school, are provided by the school district at the  
 794 request of the charter school, that any funds due to the charter  
 795 school under the federal lunch program be paid to the charter  
 796 school as soon as the charter school begins serving food under  
 797 the federal lunch program, and that the charter school is paid  
 798 at the same time and in the same manner under the federal lunch  
 799 program as other public schools serviced by the sponsor or the  
 800 school district; test administration services, including payment



801 of the costs of state-required or district-required student  
 802 assessments; processing of teacher certificate data services;  
 803 and information services, including equal access to student  
 804 information systems that are used by public schools in the  
 805 district in which the charter school is located. Student  
 806 performance data for each student in a charter school,  
 807 including, but not limited to, FCAT scores, standardized test  
 808 scores, previous public school student report cards, and student  
 809 performance measures, shall be provided by the sponsor to a  
 810 charter school in the same manner provided to other public  
 811 schools in the district.

812       2. A sponsor may withhold an administrative fee for the  
 813 provision of such services which shall be a percentage of the  
 814 available funds defined in paragraph (17) (b) calculated on  
 815 weighted full-time equivalent students as follows:

816       a. up to 5 percent for:

817       i. enrollment up to and including 250 students in a charter  
 818 school as defined in this section. If the charter school serves  
 819 75 percent or more exceptional education students as defined in  
 820 1003.01(3), the percentage shall be calculated on unweighted  
 821 full-time equivalent students; or

822       ii. enrollment up to and including 500 students within a  
 823 system of charter schools which meets all of the following:

824       a) includes both conversion charter schools and  
 825 nonconversion charter schools;

- 826 b) Has all schools located in the same county;
- 827 c) Has a total enrollment exceeding the total enrollment
- 828 of at least one school district in the state;
- 829 d) Has the same governing board; and
- 830 e) Does not contract with a for-profit service provider
- 831 for management of school operations; or
- 832 iii. enrollment up to and including 250 students in a
- 833 virtual charter school.
- 834 b. up to 2 percent for enrollment up to and including 250
- 835 students in a high-performing charter school as defined in s.
- 836 1002.331.

837 3. A sponsor shall not charge charter schools any

838 additional fees or surcharges for administrative and educational

839 services in addition to the maximum percentage administrative

840 fees withheld pursuant to this paragraph.

841 ~~A total administrative fee for the provision of such~~

842 ~~services shall be calculated based upon up to 5 percent of the~~

843 ~~available funds defined in paragraph (17) (b) for all students,~~

844 ~~except that when 75 percent or more of the students enrolled in~~

845 ~~the charter school are exceptional students as defined in s.~~

846 ~~1003.01(3), the 5 percent of those available funds shall be~~

847 ~~calculated based on unweighted full time equivalent students.~~

848 ~~However, a sponsor may only withhold up to a 5 percent~~

849 ~~administrative fee for enrollment for up to and including 250~~

850 ~~students. For charter schools with a population of 251 or more~~

851 ~~students, the difference between the total administrative fee~~  
 852 ~~calculation and the amount of the administrative fee withheld~~  
 853 ~~may only be used for capital outlay purposes specified in s.~~  
 854 ~~1013.62(3).~~

855 ~~—— 3. For high performing charter schools, as defined in s.~~  
 856 ~~1002.331, a sponsor may withhold a total administrative fee of~~  
 857 ~~up to 2 percent for enrollment up to and including 250 students~~  
 858 ~~per school.~~

859 ~~—— 4. In addition, a sponsor may withhold only up to a 5-~~  
 860 ~~percent administrative fee for enrollment for up to and~~  
 861 ~~including 500 students within a system of charter schools which~~  
 862 ~~meets all of the following:~~

863 ~~—— a. Includes both conversion charter schools and~~  
 864 ~~nonconversion charter schools;~~

865 ~~—— b. Has all schools located in the same county;~~

866 ~~—— c. Has a total enrollment exceeding the total enrollment~~  
 867 ~~of at least one school district in the state;~~

868 ~~—— d. Has the same governing board; and~~

869 ~~—— e. Does not contract with a for profit service provider~~  
 870 ~~for management of school operations.~~

871 ~~—— 5. The difference between the total administrative fee~~  
 872 ~~calculation and the amount of the administrative fee withheld~~  
 873 ~~pursuant to subparagraph 4. may be used for instructional and~~  
 874 ~~administrative purposes as well as for capital outlay purposes~~  
 875 ~~specified in s. 1013.62(3).~~

876 ~~6. For a high performing charter school system that also~~  
 877 ~~meets the requirements in subparagraph 4., a sponsor may~~  
 878 ~~withhold a 2 percent administrative fee for enrollments up to~~  
 879 ~~and including 500 students per system.~~

880 ~~7. Sponsors shall not charge charter schools any~~  
 881 ~~additional fees or surcharges for administrative and educational~~  
 882 ~~services in addition to the maximum 5 percent administrative fee~~  
 883 ~~withheld pursuant to this paragraph.~~

884 ~~8. The sponsor of a virtual charter school may withhold a~~  
 885 ~~fee of up to 5 percent. The funds shall be used to cover the~~  
 886 ~~cost of services provided under subparagraph 1. and~~  
 887 ~~implementation of the school district's digital classrooms plan~~  
 888 ~~pursuant to s. 1011.62.~~

889 (b) If goods and services are made available to the  
 890 charter school through the contract with the school district,  
 891 they shall be provided to the charter school at a rate no  
 892 greater than the district's actual cost unless mutually agreed  
 893 upon by the charter school and the sponsor in a contract  
 894 negotiated separately from the charter. When mediation has  
 895 failed to resolve disputes over contracted services or  
 896 contractual matters not included in the charter, an appeal may  
 897 be made for a dispute resolution hearing before the Charter  
 898 School Appeal Commission. To maximize the use of state funds,  
 899 school districts shall allow charter schools to participate in  
 900 the sponsor's bulk purchasing program if applicable.

901 (c) Transportation of charter school students shall be  
 902 provided by the charter school consistent with the requirements  
 903 of subpart I.E. of chapter 1006 and s. 1012.45. The governing  
 904 body of the charter school may provide transportation through an  
 905 agreement or contract with the district school board, a private  
 906 provider, or parents. The charter school and the sponsor shall  
 907 cooperate in making arrangements that ensure that transportation  
 908 is not a barrier to equal access for all students residing  
 909 within a reasonable distance of the charter school as determined  
 910 in its charter.

911 (d) Each charter school shall annually complete and  
 912 submit a survey, provided in a format specified by the  
 913 Department of Education, to rate the timeliness and quality of  
 914 services provided by the district in accordance with this  
 915 section. The department shall compile the results, by district,  
 916 and include them in the report required pursuant to sub-  
 917 subsection (5)(b)1.k.III.

918 (21) PUBLIC INFORMATION ON CHARTER SCHOOLS.--

919 (a) The Department of Education shall provide information  
 920 to the public, directly and through sponsors, on how to form and  
 921 operate a charter school and how to enroll in a charter school  
 922 once it is created. This information shall include a standard  
 923 ~~model~~ application form, standard charter contract, standard  
 924 evaluation instrument, and standard charter renewal contract,  
 925 which shall include the information specified in subsection (7)

926 and shall be developed by consulting and negotiating with both  
 927 school districts and charter schools before implementation. The  
 928 charter and charter renewal contracts shall be used by charter  
 929 school sponsors.

930 (b)1. The Department of Education shall report to each  
 931 charter school receiving a school grade pursuant to s. 1008.34  
 932 or a school improvement rating pursuant to s. 1008.341 the  
 933 school's student assessment data.

934 2. The charter school shall report the information in  
 935 subparagraph 1. to each parent of a student at the charter  
 936 school, the parent of a child on a waiting list for the charter  
 937 school, the district in which the charter school is located, and  
 938 the governing board of the charter school. This paragraph does  
 939 not abrogate the provisions of s. 1002.22, relating to student  
 940 records, or the requirements of 20 U.S.C. s. 1232g, the Family  
 941 Educational Rights and Privacy Act.

942 ~~3.a. Pursuant to this paragraph, the Department of~~  
 943 ~~Education shall compare the charter school student performance~~  
 944 ~~data for each charter school in subparagraph 1. with the student~~  
 945 ~~performance data in traditional public schools in the district~~  
 946 ~~in which the charter school is located and other charter schools~~  
 947 ~~in the state. For alternative charter schools, the department~~  
 948 ~~shall compare the student performance data described in this~~  
 949 ~~paragraph with all alternative schools in the state. The~~  
 950 ~~comparative data shall be provided by the following grade~~

951 ~~groupings:~~

952 ~~—— (I) Grades 3 through 5;~~

953 ~~—— (II) Grades 6 through 8; and~~

954 ~~—— (III) Grades 9 through 11.~~

955 ~~—— b. Each charter school shall provide the information~~  
 956 ~~specified in this paragraph on its Internet website and also~~  
 957 ~~provide notice to the public at large in a manner provided by~~  
 958 ~~the rules of the State Board of Education. The State Board of~~  
 959 ~~Education shall adopt rules to administer the notice~~  
 960 ~~requirements of this subparagraph pursuant to ss. 120.536(1) and~~  
 961 ~~120.54. The website shall include, through links or actual~~  
 962 ~~content, other information related to school performance.~~

963 (25) LOCAL EDUCATIONAL AGENCY STATUS FOR CERTAIN CHARTER  
 964 SCHOOL SYSTEMS.—A charter school system's governing board shall  
 965 be designated a local educational agency for the purpose of  
 966 receiving federal funds, the same as though the charter school  
 967 system were a school district, if the governing board of the  
 968 charter school system has adopted and filed a resolution with  
 969 its sponsoring district school board and the Department of  
 970 Education in which the governing board of the charter school  
 971 system accepts the full responsibility for all local education  
 972 agency requirements and the charter school system meets all of  
 973 the following:

974 ~~(a) Includes both conversion charter schools and~~  
 975 ~~nonconversion charter schools;~~

- 976 (b) Has all schools located in the same county;
- 977 (c) Has a total enrollment exceeding the total enrollment
- 978 of at least one school district in the state;
- 979 (d) Has the same governing board; ~~and~~
- 980 ~~(e) Does not contract with a for profit service provider~~
- 981 ~~for management of school operations.~~

982

983 Such designation does not apply to other provisions unless

984 specifically provided in law.

985 (28) RULEMAKING.—The Department of Education, after

986 consultation with school districts and charter school directors,

987 shall recommend that the State Board of Education adopt rules to

988 implement specific subsections of this section. Such rules shall

989 require minimum paperwork and shall not limit charter school

990 flexibility authorized by statute. The State Board of Education

991 shall adopt rules, pursuant to ss. 120.536(1) and 120.54, to

992 implement a charter standard model application form, a standard

993 application form for high-performing charter school system

994 replications, standard evaluation instrument, and standard

995 charter and charter renewal contracts in accordance with this

996 section.

997 Section 2. Paragraph (b) of subsection (2) of section

998 1002.3305, Florida Statutes, is amended to read:

999 1002.3305 College-Preparatory Boarding Academy Pilot

1000 Program for at-risk students.—



1001 (2) DEFINITIONS.—As used in this section, the term:

1002 (a) "Board" means the board of trustees of a college-

1003 preparatory boarding academy for at-risk students.

1004 (b) "Eligible student" means a student who is a resident

1005 of the state and entitled to attend school in a participating

1006 school district, is at risk of academic failure, is currently

1007 enrolled in grade 5-12, ~~or 6~~ if it is determined by the operator

1008 that a seat is available, is from a family whose gross income is

1009 at or below 200 percent of the federal poverty guidelines, is

1010 eligible for benefits or services funded by Temporary Assistance

1011 for Needy Families (TANF) or Title IV-E of the Social Security

1012 Act, and meets at least one of the following additional risk

1013 factors:

1014 1. The child is in foster care or has been declared an

1015 adjudicated dependent by a court.

1016 2. The student's head of household is not the student's

1017 custodial parent.

1018 3. The student resides in a household that receives a

1019 housing voucher or has been determined eligible for public

1020 housing assistance.

1021 4. A member of the student's immediate family has been

1022 incarcerated.

1023 5. The child is covered under the terms of the state's

1024 Child Welfare Waiver Demonstration project with the United

1025 States Department of Health and Human Services.

PCB PKI 17-01

ORIGINAL

2017

1026 (c) "Operator" means a private, nonprofit corporation that  
 1027 is selected by the state under subsection (3) to operate the  
 1028 program.

1029 (d) "Program" means a college-preparatory boarding academy  
 1030 for at-risk students which includes:

- 1031 1. A remedial curriculum for middle school grades;
- 1032 2. The college-preparatory curriculum for high school  
 1033 grades;
- 1034 3. Extracurricular activities, including athletics and  
 1035 cultural events;
- 1036 4. College admissions counseling;
- 1037 5. Health and mental health services;
- 1038 6. Tutoring;
- 1039 7. Community service and service learning opportunities;
- 1040 8. A residential student life program;
- 1041 9. Extended school days and supplemental programs; and
- 1042 10. Professional services focused on the language arts and  
 1043 reading standards, mathematics standards, science standards,  
 1044 technology standards, and developmental or life skill standards  
 1045 using innovative and best practices for all students.

1046 (e) "Sponsor" means a public school district that acts as  
 1047 a sponsor pursuant to s. 1002.33.

1048 Section 3. Subsection (3) of section 1002.331, Florida  
 1049 Statutes, is amended to read:

1050 1002.331 High-performing charter schools.—

PCB PKI 17-01

ORIGINAL

2017

1051 (3) (a) A high-performing charter school may submit an  
 1052 application pursuant to s. 1002.33(6) in any school district in  
 1053 the state to establish and operate a new charter school that  
 1054 will substantially replicate its educational program. An  
 1055 application submitted by a high-performing charter school must  
 1056 state that the application is being submitted pursuant to this  
 1057 paragraph and must include the verification letter provided by  
 1058 the Commissioner of Education pursuant to subsection (4).

1059 2. If the sponsor fails to act on the application within 90  
 1060 ~~60~~ days after receipt, the application is deemed approved and  
 1061 the procedure in s. 1002.33 ~~7(6)(h)~~ applies. ~~If the sponsor~~  
 1062 ~~denies the application, the high-performing charter school may~~  
 1063 ~~appeal pursuant to s. 1002.33(6).~~

1064 (b) A high-performing charter school may not establish  
 1065 more than one charter school within the state under paragraph  
 1066 (a) in any year. A subsequent application to establish a charter  
 1067 school under paragraph (a) may not be submitted unless each  
 1068 charter school established in this manner achieves high-  
 1069 performing charter school status. However, a high-performing  
 1070 charter school may establish more than one charter school within  
 1071 the state under paragraph (a) in any year only if it chooses to  
 1072 operate in the area of a persistently low performing school and  
 1073 serve students from that school.

1074 Section 4. Paragraph (b) of subsection (2) of section  
 1075 1002.332, Florida Statutes is amended to read:

1076 1002.332 High-performing charter school system.—  
 1077 (2) (b) A high-performing charter school system may  
 1078 replicate its high-performing charter schools in any school  
 1079 district in the state. ~~pursuant to s. 1002.331(3).~~ The applicant  
 1080 must submit an application using a standard application form  
 1081 prepared by the Department of Education which:  
 1082 1. Contains goals and objectives for improving student  
 1083 learning and measuring that improvement. These goals and  
 1084 objectives must indicate how much academic improvement students  
 1085 are expected to show each year, how success will be evaluated,  
 1086 and the specific results to be attained through instruction.  
 1087 2. Contains an annual financial plan for each year  
 1088 requested by the charter for operation of the school for up to 5  
 1089 years. This plan must contain anticipated fund balances based on  
 1090 revenue projections, a spending plan based on projected revenues  
 1091 and expenses, and a description of controls that will safeguard  
 1092 finances and projected enrollment trends.  
 1093 3. Discloses the name of each applicant, governing board  
 1094 member, and all proposed education services providers; the name  
 1095 and sponsor of any charter school operated by each applicant,  
 1096 each governing board member, and each proposed education  
 1097 services provider that has closed and the reasons for the  
 1098 closure; and the academic and financial history of such charter  
 1099 schools, which the sponsor shall consider in deciding whether to  
 1100 approve or deny the application.

1101           (c) An application submitted by a high-performing charter  
 1102 school system must state that the application is being submitted  
 1103 pursuant to this paragraph and must include the verification  
 1104 letter provided by the Commissioner of Education pursuant to  
 1105 subsection (2). If the sponsor fails to act on the application  
 1106 within 90 days after receipt, the application is deemed approved  
 1107 and the procedure in s. 1002.33(7) applies.

1108           Section 5. Paragraph (d) of subsection (3) of section  
 1109 1008.34, Florida Statutes, is amended to read:

1110           1008.34 School grading system; school report cards;  
 1111 district grade.—

1112           (3) DESIGNATION OF SCHOOL GRADES.—

1113           (d) The performance of students attending alternative  
 1114 schools and students designated as hospital or homebound shall  
 1115 be factored into a school grade as follows:

1116           1. The student performance data for eligible students  
 1117 attending alternative schools, including charter alternative  
 1118 schools, that provide dropout prevention and academic  
 1119 intervention services pursuant to s. 1003.53 shall be included  
 1120 in the calculation of the home school's grade. The term  
 1121 "eligible students" in this subparagraph does not include  
 1122 students attending an alternative school who are subject to  
 1123 district school board policies for expulsion for repeated or  
 1124 serious offenses, who are in dropout retrieval programs serving  
 1125 students who have officially been designated as dropouts, or who

1126 are in programs operated or contracted by the Department of  
 1127 Juvenile Justice. As used in this subparagraph, the term "home  
 1128 school" means the school to which the student would be assigned  
 1129 if the student were not assigned to an alternative school. If an  
 1130 alternative school chooses to be graded under this section,  
 1131 student performance data for eligible students identified in  
 1132 this subparagraph shall not be included in the home school's  
 1133 grade but shall be included only in the calculation of the  
 1134 alternative school's grade. A school district that fails to  
 1135 assign statewide, standardized end-of-course assessment scores  
 1136 of each of its students to his or her home school or to the  
 1137 alternative school that receives a grade shall forfeit Florida  
 1138 School Recognition Program funds for one fiscal year. School  
 1139 districts must require collaboration between the home school and  
 1140 the alternative school in order to promote student success. This  
 1141 collaboration must include an annual discussion between the  
 1142 principal of the alternative school and the principal of each  
 1143 student's home school concerning the most appropriate school  
 1144 assignment of the student.

1145       2. Student performance data for students designated as  
 1146 hospital or homebound shall be assigned to their home school for  
 1147 the purposes of school grades. As used in this subparagraph, the  
 1148 term "home school" means the school to which a student would be  
 1149 assigned if the student were not assigned to a hospital or  
 1150 homebound program.

1151           3. Student performance data for a high school student who  
 1152 transfers to a private school that has a contractual  
 1153 relationship with the school district shall be assigned to the  
 1154 school in which the student was last enrolled.

1155           Section 6. Subsection (3) of 1008.341, F.S., is amended to  
 1156 read:

1157           (3) DESIGNATION OF SCHOOL IMPROVEMENT RATING.—Student  
 1158 Learning Gains based on statewide, standardized assessments,  
 1159 including retakes, administered under s. 1008.22 for all  
 1160 eligible students who were assigned to and enrolled in the  
 1161 school during the October or February FTE count and who have  
 1162 assessment scores, concordant scores, or comparable scores for  
 1163 the preceding school year shall be used in determining an  
 1164 alternative school's school improvement rating. An alternative  
 1165 school's rating shall be based on the following components:

1166           (a) The percentage of eligible students who make Learning  
 1167 Gains in English Language Arts as measured by statewide,  
 1168 standardized assessments under s. 1008.22(3).

1169           (b) The percentage of eligible students who make Learning  
 1170 Gains in mathematics as measured by statewide, standardized  
 1171 assessments under s. 1008.22(3).

1172  
 1173 Student performance results of students who are subject to  
 1174 district school board policies for expulsion for repeated or  
 1175 serious offenses, who are in dropout retrieval programs serving

PCB PKI 17-01

ORIGINAL

2017

1176 students who have officially been designated as dropouts, or who  
1177 are in programs operated or contracted by the Department of  
1178 Juvenile Justice may not be included in an alternative school's  
1179 school improvement rating.

1180 Section 7. Paragraph (1) of section 1011.62, Florida  
1181 Statutes is amended to read:

1182 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR  
1183 OPERATION.—The following procedure shall be followed in  
1184 determining the annual allocation to each district for  
1185 operation:

1186 (i) Calculation of full-time equivalent membership with  
1187 respect to dual enrollment instruction.—Students enrolled in  
1188 dual enrollment instruction pursuant to s. 1007.271 may be  
1189 included in calculations of full-time equivalent student  
1190 memberships for basic programs for grades 9 through 12 by a  
1191 district school board. Instructional time for dual enrollment  
1192 may vary from 900 hours; however, the full-time equivalent  
1193 student membership value shall be subject to the provisions in  
1194 s. 1011.61(4). Dual enrollment full-time equivalent student  
1195 membership shall be calculated in an amount equal to the hours  
1196 of instruction that would be necessary to earn the full-time  
1197 equivalent student membership for an equivalent course if it  
1198 were taught in the school district. Students in dual enrollment  
1199 courses may also be calculated as the proportional shares of  
1200 full-time equivalent enrollments they generate for a Florida

PCB PKI 17-01

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1201 College System institution or university conducting the dual  
 1202 enrollment instruction. Early admission students shall be  
 1203 considered dual enrollments for funding purposes. Students may  
 1204 be enrolled in dual enrollment instruction provided by an  
 1205 eligible independent college or university and may be included  
 1206 in calculations of full-time equivalent student memberships for  
 1207 basic programs for grades 9 through 12 by a district school  
 1208 board. However, those provisions of law which exempt dual  
 1209 enrolled and early admission students from payment of  
 1210 instructional materials and tuition and fees, including  
 1211 laboratory fees, shall not apply to students who select the  
 1212 option of enrolling in an eligible independent institution. An  
 1213 independent college or university, which is located and  
 1214 ~~chartered in Florida,~~ is not for profit, is accredited by a  
 1215 regional or national accrediting agency recognized by the United  
 1216 States Department of Education ~~the Commission on Colleges of the~~  
 1217 ~~Southern Association of Colleges and Schools or the Accrediting~~  
 1218 ~~Council for Independent Colleges and Schools,~~ and confers  
 1219 degrees as defined in s. 1005.02 shall be eligible for inclusion  
 1220 in the dual enrollment or early admission program. Students  
 1221 enrolled in dual enrollment instruction shall be exempt from the  
 1222 payment of tuition and fees, including laboratory fees. No  
 1223 student enrolled in college credit mathematics or English dual  
 1224 enrollment instruction shall be funded as a dual enrollment  
 1225 unless the student has successfully completed the relevant

1226 section of the entry-level examination required pursuant to s.  
 1227 1008.30.

1228 Section 8. Subsection (2) of s. 1011.71, Florida Statutes  
 1229 is amended and subsection (10) is created to read:

1230 1011.71 District school tax.—

1231 (2) In addition to the maximum millage levy as provided in  
 1232 subsection (1), each school board may levy not more than 1.5  
 1233 mills against the taxable value for school purposes for district  
 1234 schools and charter-schools-in-a-municipality, including charter  
 1235 schools at the discretion of the school board, to fund:

1236 (a) New construction and remodeling projects, as set forth  
 1237 in s. 1013.64(3)(b) and (6)(b) and included in the district's  
 1238 educational plant survey pursuant to s. 1013.31, without regard  
 1239 to prioritization, sites and site improvement or expansion to  
 1240 new sites, existing sites, auxiliary facilities, athletic  
 1241 facilities, or ancillary facilities.

1242 (b) Maintenance, renovation, and repair of existing school  
 1243 plants or of leased facilities to correct deficiencies pursuant  
 1244 to s. 1013.15(2).

1245 (c) The purchase, lease-purchase, or lease of school  
 1246 buses.

1247 (d) The purchase, lease-purchase, or lease of new and  
 1248 replacement equipment; computer hardware, including electronic  
 1249 hardware and other hardware devices necessary for gaining access  
 1250 to or enhancing the use of electronic content and resources or

1251 to facilitate the access to and the use of a school district's  
 1252 digital classrooms plan pursuant to s. 1011.62, excluding  
 1253 software other than the operating system necessary to operate  
 1254 the hardware or device; and enterprise resource software  
 1255 applications that are classified as capital assets in accordance  
 1256 with definitions of the Governmental Accounting Standards Board,  
 1257 have a useful life of at least 5 years, and are used to support  
 1258 districtwide administration or state-mandated reporting  
 1259 requirements.

1260 (e) Payments for educational facilities and sites due  
 1261 under a lease-purchase agreement entered into by a district  
 1262 school board pursuant to s. 1003.02(1)(f) or s. 1013.15(2), not  
 1263 exceeding, in the aggregate, an amount equal to three-fourths of  
 1264 the proceeds from the millage levied by a district school board  
 1265 pursuant to this subsection. The three-fourths limit is waived  
 1266 for lease-purchase agreements entered into before June 30, 2009,  
 1267 by a district school board pursuant to this paragraph.

1268 (f) Payment of loans approved pursuant to ss. 1011.14 and  
 1269 1011.15.

1270 (g) Payment of costs directly related to complying with  
 1271 state and federal environmental statutes, rules, and regulations  
 1272 governing school facilities.

1273 (h) Payment of costs of leasing relocatable educational  
 1274 facilities, of renting or leasing educational facilities and  
 1275 sites pursuant to s. 1013.15(2), or of renting or leasing

PCB PKI 17-01

ORIGINAL

2017

1276 buildings or space within existing buildings pursuant to s.  
1277 1013.15(4).

1278 (i) Payment of the cost of school buses when a school  
1279 district contracts with a private entity to provide student  
1280 transportation services if the district meets the requirements  
1281 of this paragraph.

1282 1. The district's contract must require that the private  
1283 entity purchase, lease-purchase, or lease, and operate and  
1284 maintain, one or more school buses of a specific type and size  
1285 that meet the requirements of s. 1006.25.

1286 2. Each such school bus must be used for the daily  
1287 transportation of public school students in the manner required  
1288 by the school district.

1289 3. Annual payment for each such school bus may not exceed  
1290 10 percent of the purchase price of the state pool bid.

1291 4. The proposed expenditure of the funds for this purpose  
1292 must have been included in the district school board's notice of  
1293 proposed tax for school capital outlay as provided in s.  
1294 200.065(10).

1295 (j) Payment of the cost of the opening day collection for  
1296 the library media center of a new school.

1297 (10) A school board that levies the discretionary millage  
1298 authorized in subsection (2) shall use the following methodology  
1299 to determine the amount of revenue that must be shared with a  
1300 charter school-in-a-municipality:

1301        (a) Reduce the total discretionary millage revenue by the  
 1302 school district's annual debt service obligation incurred as of  
 1303 March 1, 2017.

1304        (b) Divide the sum of the school district's adjusted  
 1305 discretionary millage revenue by the school district's total  
 1306 capital outlay full-time equivalent membership and the total  
 1307 number of unweighted full-time equivalent students of each  
 1308 eligible charter school-in-a-municipality to determine a capital  
 1309 outlay allocation per full-time equivalent student.

1310        (c) Multiply the capital outlay allocation per full-time  
 1311 equivalent student by the total number of full-time equivalent  
 1312 students of each eligible charter school-in-a-municipality to  
 1313 determine the capital outlay allocation for each charter school-  
 1314 in-a-municipality.

1315        (d) If applicable, adjust the capital outlay allocation  
 1316 identified in paragraph (c) by the total amount of state funds  
 1317 allocated to each eligible charter school-in-a-municipality in  
 1318 subsection 1013.62(2) to determine the maximum calculated  
 1319 capital outlay allocation.

1320        (e) The school district shall distribute capital outlay  
 1321 funds to charter schools-in-a-municipality no later than  
 1322 February 1 of each year, beginning on February 1, 2018, for the  
 1323 2017-2018 fiscal year.

1324        Section 9. Paragraph (a) of subsection (1) of section  
 1325 1013.62, Florida Statutes, is amended to read:

1326 1013.62 Charter schools capital outlay funding.—  
 1327 (1) In each year in which funds are appropriated for  
 1328 charter school capital outlay purposes, the Commissioner of  
 1329 Education shall allocate the funds among eligible charter  
 1330 schools as specified in this section.  
 1331 (a) To be eligible for a funding allocation, a charter  
 1332 school must:  
 1333 1.a. Have been in operation for 2 or more years;  
 1334 b. Be governed by a governing board established in the  
 1335 state for 3 or more years which operates both charter schools  
 1336 and conversion charter schools within the state;  
 1337 c. Be an expanded feeder chain of a charter school within  
 1338 the same school district that is currently receiving charter  
 1339 school capital outlay funds;  
 1340 d. Have been accredited by the Commission on Schools of  
 1341 the Southern Association of Colleges and Schools; or  
 1342 e. Serve students in facilities that are provided by a  
 1343 business partner for a charter school-in-the-workplace pursuant  
 1344 to s. 1002.33(15)(b).  
 1345 2. Have an annual audit that does not reveal any of the  
 1346 financial emergency conditions provided in s. 218.503(1) for the  
 1347 most recent fiscal year for which such audit results are  
 1348 available.  
 1349 ~~3. Have satisfactory student achievement based on state~~  
 1350 ~~accountability standards applicable to the charter school.~~

PCB PKI 17-01

ORIGINAL

2017

1351        ~~3.4.~~ Have received final approval from its sponsor  
1352 pursuant to s. 1002.33 for operation during that fiscal year.

1353        ~~4.5.~~ Serve students in facilities that are not provided by  
1354 the charter school's sponsor.

1355        Section 10. This act shall take effect July 1, 2017.